State Resources Council

Friday, April 21, 2006
3:30 PM
Reed Hall

Allan G. Bense
Speaker

Marty Bowen
Chair

Council Meeting Notice

HOUSE OF REPRESENTATIVES

Speaker Allan G. Bense

(AMENDED 4/20/2006 6:16:52PM)

Amended(1)

State Resources Council

Start Date and Time:	Friday, April 21, 2006 03:30 pm
End Date and Time:	Friday, April 21, 2006 05:00 pm
Location:	Reed Hall (102 HOB)
Duration:	1.50 hrs

Consideration of the following bill(s):

HB 229 CS Exploration, Production, and Storage of Petroleum and Natural Gas by Clarke
HB 471 CS Fish and Wildlife by Troutman
HB 507 CS Exemptions from the Tax on Sales, Use, and Other Transactions by Kreegel
HB 733 CS Airboats by Dean
HB 1039 CS Miami-Dade County Lake Belt Area by Garcia
HB 1347 CS Land Management by Williams
HB 1359 CS Hazard Mitigation for Coastal Redevelopment by Benson
HB 7075 CS Department of Agriculture and Consumer Services by Agriculture Committee
HB 7131 Redevelopment of Brownfields by Environmental Regulation Committee

NOTICE FINALIZED on 04/20/2006 18:16 by REARDON.BILLIE

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 229 CS Use of Land for the Exploration, Production, and Storage of Petroleum and Natural Gas
SPONSOR(S): Clarke
TIED BILLS: **IDEN./SIM. BILLS:** SB 2708

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) Water & Natural Resources Committee	11 Y, 0 N, w/CS	Lotspeich	Lotspeich
2) Environmental Regulation Committee	7 Y, 0 N	Perkins	Kliner
3) Agriculture & Environment Appropriations Committee	8 Y, 3 N	Dixon	Dixon
4) State Resources Council		Lotspeich EL	Hamby JRC
5)			

SUMMARY ANALYSIS

The bill directs the Department of Environmental Protection (DEP) to contract for a study relating to risk and potential adverse effects of hurricane wind and storm surge on field-erected aboveground storage tank systems at bulk product facilities.

The bill also directs the DEP to review and compile existing data and information to evaluate the environmental risks from all activities associated with the possible future exploration for and production of oil and natural gas in the eastern Gulf of Mexico currently subject to federal moratoria.

The DEP is authorized to use up to $250,000 from the Inland Protection Trust Fund for the 2006-2007 and 2007-2008 fiscal years to pay the expenses of the study relating to aboveground storage tanks.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

The bill does not appear to implicate any of the House Principles.

B. EFFECT OF PROPOSED CHANGES:

BACKGROUND

Offshore Drilling for Oil and Natural Gas

The Outer Continental Shelf

The Outer Continental Shelf (OCS) consists of the submerged lands, subsoil, and seabed, lying between the seaward extent of the States' jurisdiction and the seaward extent of Federal jurisdiction. The continental shelf is the gently sloping undersea plain between a continent and the deep ocean. The United States OCS has been divided into four leasing regions. They are the Gulf of Mexico OCS Region, the Atlantic OCS Region, the Pacific OCS Region, and the Alaska OCS Region. In 1953, Congress designated the Secretary of the Department of Interior to administer mineral exploration and development of the entire OCS through the Outer Continental Shelf Lands Act (OCSLA). The OCSLA was amended in 1978 directing the secretary to:[1]

- conserve the Nation's natural resources;
- develop natural gas and oil reserves in an orderly and timely manner;
- meet the energy needs of the country;
- protect the human, marine, and coastal environments; and
- receive a fair and equitable return on the resources of the OCS.

State jurisdiction over the OCS is defined as follows:

- Texas and the Gulf coast of Florida are extended 3 marine leagues (approximately 9 nautical miles) seaward from the shoreline.
- Louisiana is extended 3 imperial nautical miles (imperial nautical mile = 6080.2 feet) seaward from the shoreline.
- All other States' seaward limits are extended 3 nautical miles (approximately 3.3 statute miles) seaward from the shoreline.

Federal jurisdiction over the OCS is defined under accepted principles of international law. The seaward limit is defined as the farthest of 200 nautical miles seaward of the shoreline or, if the continental shelf can be shown to exceed 200 nautical miles, a distance not greater than a line 100 nautical miles from the 2,500-meter isobath or a line 350 nautical miles from the shoreline.[2]

The OCS is a significant source of oil and gas for the nation's energy supply. The OCS supplies more than 25 percent of the country's natural gas production and more than 30 percent of total domestic oil production. The offshore areas of the United States contain the majority of future oil and gas resources. It is estimated that 60 percent of the oil and 59 percent of the gas yet to be discovered in the United States are located on the OCS.[3]

The OCS Lands Act requires the Department of Interior (DOI) to prepare a 5-year program that specifies the size, timing and location of areas to be assessed for Federal offshore natural gas and oil

[1] http://www.gomr.mms.gov/homepg/whoismms/whatsocs.html
[2] http://www.gomr.mms.gov/homepg/whoismms/whatsocs.html
[3] http://www.mms.gov/offshore/

leasing. It is the role of DOI to ensure that the U.S. government receives fair market value for acreage made available for leasing and that any oil and gas activities conserve resources, operate safely, and take maximum steps to protect the environment. OCS oil and gas lease sales are held on an area-wide basis with annual sales in the Central and Western Gulf of Mexico with less frequent sales held in the Eastern Gulf of Mexico and offshore Alaska. The program operates along all the coasts of the United States - with oil and gas production occurring on the Gulf of Mexico, Pacific, and Alaska and OCS.[4]

The Minerals Management Service

The Minerals Management Service (MMS), a bureau in the DOI, is the federal agency that manages the nation's natural gas, oil and other mineral resources on the OCS. The MMS also collects, accounts for and disburses more than $8 billion per year in revenues from federal offshore mineral leases. The MMS oversees two major programs: Offshore Minerals and Minerals Revenue Management. The Offshore Minerals program, which manages the mineral resources on the OCS, comprises three regions: Alaska, the Pacific, and the Gulf of Mexico.[5]
The Gulf of Mexico OCS Region is made up of three planning areas along the Gulf Coast - the Western, Central, and Eastern Gulf of Mexico Planning Areas. These areas contain 43 million acres under lease. There are 3,911 offshore production platforms active in the search for natural gas and oil on the Gulf OCS. These production facilities contribute significantly to the nation's energy supply.[6]

Eastern Gulf of Mexico Planning Area[7]

The Eastern Gulf of Mexico Planning Area extends along the Gulf's northeastern coast for some 700 miles, from Baldwin County, Alabama, southward to the Florida Keys. The area encompasses approximately 76 million acres, with water depths ranging from approximately 30 feet to nearly 10,000 feet. The area extends for more than 300 miles seaward of the state/federal boundary (9 miles off the Florida coast).

Since the late 1980's, a limited amount of OCS activity has taken place in the Eastern Gulf of Mexico Planning Area because of administrative deferrals and annual congressional moratoria.

The MMS has estimated that between 6.95 and 9.22 trillion cubic feet of natural gas and 1.57 and 2.78 billion barrels of oil and condensate are contained in the Eastern Gulf of Mexico Planning Area. Drilling for natural gas and oil has been occurring in the Eastern Gulf of Mexico offshore Alabama and Florida for more than three decades. The first of 11 natural gas and oil lease sales held offshore Florida occurred in 1959 and resulted in the issuance of 23 leases. Additional lease sales have been held periodically in the Eastern Gulf from 1973 through 2003. Currently, there are 241 active leases in the Eastern Gulf of Mexico Planning Area.

Exploratory drilling started in the Eastern Gulf of Mexico in the mid-1970's with the drilling of Destin Dome Block 162, located 40 miles south of Panama City, Florida. After two years of drilling and 15 dry holes, exploration stopped. To date, over 54 exploratory wells have been drilled in the Eastern Gulf of Mexico. Thirteen wells discovered natural gas, condensate, and crude oil.

Three Eastern Gulf lease sales were made in the 1980's and there was renewed industry interest in the Destin Dome area. In the late 1980's, Chevron U.S.A. and Gulfstar made natural gas discoveries in the area.

In October 1995, 73 oil and gas leases located *south* of 26° N. latitude (the approximate latitude of Naples, Florida) were returned to the federal government as part of a litigation settlement. Consequently, no active Federal natural gas and oil leases exist off southwest Florida. Likewise, no

[4] http://www.mms.gov/offshore/
[5] http://www.mms.gov/aboutmms/
[6] http://www.gomr.mms.gov/homepg/offshore/gulfocs/gulfocs.html
[7] http://www.gomr.mms.gov/homepg/offshore/egom/eastern.html

active leases exist in the Straits of Florida Planning Area or off Florida's east coast (South Atlantic Planning Area).

In 1996, a development plan was filed by Chevron U.S.A. and partners on the Destin Dome 56 Unit. On July 24, 2000, Chevron U.S.A. and partners filed a lawsuit against the U.S. government for denying the companies "timely and fair review" of plans and permits relating to the Destin Dome 56 Unit. In May 2002, the Department agreed to settle the litigation with the oil companies. The companies -- Chevron, Conoco and Murphy Oil -- relinquished seven of nine leases in the unit that were the subject of the litigation in exchange for $115 million. The remaining two leases, Destin Dome Blocks 56 and 57, are to be held by Murphy and will be suspended until at least 2012, under the terms of the agreement. Murphy agreed not to submit a development plan on the two remaining leases before 2012, the year when the current moratoria will expire. Under the terms of the agreement, the leases can not be developed unless approved by both the federal government and the State of Florida.

Unocal began the first production in the Eastern Gulf Planning Area in mid-February 1999 on Pensacola Block 881. Located approximately 12 miles offshore Alabama, this site involves the production of some 5 million cubic feet of natural gas per day.

In October 1999, Gulfstream Natural Gas Systems (ANR) and Buccaneer Gas Pipeline Company (Transco/Williams) submitted pipeline right-of-way applications to the MMS for the construction of two 400-mile (36-inch) natural gas pipelines spanning the Eastern Gulf of Mexico. The Gulfstream right-of-way was approved by MMS on June 1, 2001. This line went into service in June 2002.

In November 1996, DOI released the OCS Oil and Gas Leasing Program (1997-2002). The program included 16 lease sales, with one sale proposed for the Eastern Gulf of Mexico in 2001. The original sale area was reviewed to be consistent with the State of Florida's opposition to offshore oil and gas activities within 100 miles of its coast. The first steps in the 3-year planning process began on January 25, 1999, with the release of the Call for Interest and Information and the Notice of Intent to Prepare an Environmental Impact Statement. A draft environmental impact statement was released in December 2000 and a final EIS was made available to the public in July 2001.

In July 2001, Sale 181 was adjusted from 5.9 million acres to about 1.5 million acres or 256 blocks. The adjusted area lies more than 100 miles off the Alabama/Florida State line. Twenty-three blocks in this area were under lease at that time. Lease Sale 181 was held on December 5, 2001. MMS awarded leases on 95 tracts involving $340,474,113. Seventeen companies participated in this sale.

On December 10, 2003, Eastern Gulf of Mexico Sale 189 was held. Six companies participated in the lease sale that offered 138 blocks comprising approximately 794,880 acres offshore Alabama. The highest bid received was $2.2 million, submitted by Shell and Nexen.

In an August 22, 2005, DOI news release, it was announced that the MMS is seeking initial public comment on the development of its 2007-2012 five-year leasing plan for energy development on the OCS and accompanying environmental impact statement.[8] This includes the Eastern Gulf of Mexico Planning Area. The announcement stated:

> "The announcement is the first step in a two-year process to develop the leasing plan. It does not include proposals for new lease sales but instead asks the public for general information and comment not only on energy development but also on other economic and environmental issues in the OCS areas.
>
> 'The OCS contains billions of barrels of oil and trillions of cubic feet of natural gas that can be safely produced,' Interior Secretary Gale Norton said. 'With our reliance on imports of foreign oil climbing each year, we would be irresponsible if we did not consider how we might develop these abundant domestic resources.'

[8] http://www.doi.gov/news/05_News_Releases/050822.htm

Presidential withdrawals or congressional moratoria have placed more than 85 percent of the OCS off the lower 48 states off limits to energy development.

The Bush Administration has repeatedly expressed its support for the existing moratoria, based upon deference to the wishes of the states to determine what activities take place off their coasts.

However, recent energy legislation passed by Congress calls for a comprehensive inventory and analysis of the oil and natural gas resources for all areas of the OCS.

Therefore, as MMS undertakes the process of drafting its proposal, the agency is seeking comment on the potential resources available in all areas of the OCS, recognizing that many of these areas are subject to existing moratoria and will not be fully analyzed for possible leasing. In seeking public comment, Secretary Norton reaffirmed the Bush Administration's pledge not to conduct any new leasing under the 2007-2012 five-year plan within 100 miles of Florida's coast, in the Eastern Gulf of Mexico Planning Area. MMS is also asking the public to comment specifically on whether the existing withdrawals or moratoria should be modified or expanded to include other areas in the OCS; and whether the Interior Department should work with Congress to develop gas-only leases.

The 2007-2012 OCS oil and gas leasing program will be the seventh program prepared since Congress passed the OCS Lands Act in 1978. The Act requires the Secretary of the Interior to prepare and maintain five-year programs for offshore oil and natural gas leasing. The current program runs through June 30, 2007.

Once public comment is received, MMS will develop a draft proposed program followed by a proposed program and draft EIS. The public will have an opportunity to comment on both documents.

The following is the schedule for the 2007-2012 five-year program:"

Date	Step
August 24, 2005	Solicit comments and information (Federal Register Notice)
Winter 2005	Issue draft proposed program (60-day comment period)
Summer 2006	Issue proposed program and draft EIS (90-day comment period)
Winter 2007	Issue proposed final program and final EIS (60-day waiting period)
Spring 2007	Approve five-year program for July 2007-July 2012

The Exploration and Development Process

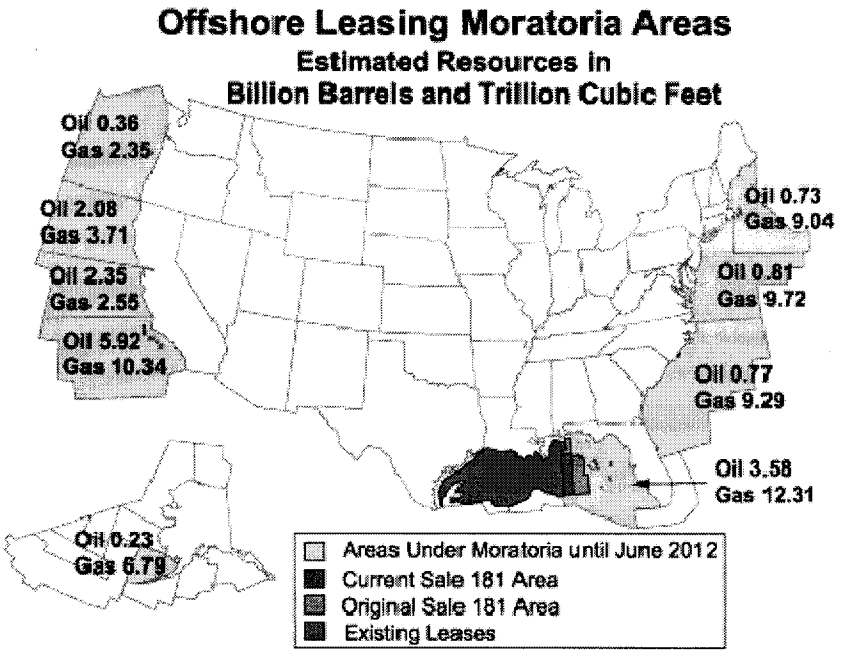
Once a company acquires a lease, the company has to prepare an exploration plan and have it approved by MMS and other federal and state agencies in order to drill a well. Typical exploration plans propose the drilling of one or more exploratory wells. The MMS conducts an environmental review of the impacts of drilling the well. Should a discovery be made, the company may then prepare and file a development plan. The exploration and development plans must be consistent with the affected state's Coastal Zone Management Plan

During exploratory drilling or production operations on the OCS, the MMS inspection program calls for MMS inspectors to review operations and periodically visit and inspect facilities to ensure clean and environmentally safe operations.

To prepare for lease sales and to protect the environment during offshore drilling operations, MMS conducts environmental studies. Several new studies are planned and/or currently underway.[9]

Federal Moratoria

Congress and past Presidents have placed moratoria on offshore drilling and development on the OCS on both the U.S. East and West Coasts. Included in the moratoria is the Eastern Gulf of Mexico. The consequence of the moratoria is to foreclose until at least 2012 any effort to explore for critical oil and gas resources that are estimated to lie beneath these areas. In response to recent sharp increases in fuel and home heating oil, several attempts have been made in Congress to limit or remove these moratoria. The map below illustrates these moratoria areas.[10]



Note: Locations of existing leases offshore California and in Eastern Gulf of Mexico are approximate and intended to be representative only.

Source: Minerals Management Service

Current State Law

Under the provisions of Chapter 253, F.S., the Governor and Cabinet sitting as the Trustees of the Internal Improvement Trust Fund have been granted the powers and duties with regard to the control of private uses of state-owned submerged lands. These state-owned submerged lands extend waterward from the shoreline for approximately 9 miles into the Gulf of Mexico and 3 miles into Atlantic Ocean.[11] Section 253.61, F.S., expressly prohibits the Trustees from granting any "oil or natural gas *lease*" on state-owned submerged lands off the State's west coast. A similar provision in section 377.24, F.S., prohibits the DEP from issuing a *permit* "to drill a well in search of oil or gas" on the same state-owned submerged lands.

[9] http://www.gomr.mms.gov/homepg/offshore/egom/eastern.html
[10] http://api-ep.api.org/issues/index.cfm
[11] Section 1, Article II, Florida Constitution

Onshore Storage of Petroleum Products

There are currently 11 ports along Florida's coast where petroleum products are shipped into the State. Each of these ports has one or more bulk petroleum storage facilities. The largest such facilities are located at Tampa (11 facilities with 162 million gallons of unleaded gasoline and 65 million gallons of diesel), Port Everglades (13 facilities with 147 million gallons of unleaded gasoline and 51.5 million gallons of diesel), Jacksonville (9 facilities with 95.5 million gallons of unleaded gasoline and 53 million gallons of diesel), Pensacola (2 facilities with 13 million gallons of unleaded gasoline and 3 million gallons of diesel), and Cape Canaveral (1 facility with 12.5 million gallons of unleaded gasoline and 5 million gallons of diesel).

Hurricane Katrina caused significant damage to bulk petroleum storage facilities along the Louisiana coast. According to the U.S. Coast Guard, Hurricane Katrina caused 6 major spills (> 100,000 gallons) at such facilities, 4 medium spills (>10,000 gallons), and 134 minor spills (< 10,000 gallons) in Louisiana. The total volume from all spills was approximately 8 million gallons. As of November 5, 2005, 3.5 million gallons had been recovered, 2 million gallons evaporated, and 2 million gallons naturally dispersed, leaving approximately 400,000 gallons to be addressed.[12]

EFFECT OF PROPOSED CHANGES

Aboveground Storage Tanks Study

The bill requires the DEP to contract for a study that evaluates the exposure risk and potential adverse effects of hurricane wind and storm surge on field-erected aboveground storage tank systems (tanks, piping, pumps, and related components) at bulk product facilities, as defined in subsection 376.031(3), F.S.

The scope of the study, at a minimum, must include:

- An evaluation of the frequency, strength, and probability estimates for hurricane winds and storm surge on those areas of Florida coasts where existing bulk product facilities are located and where new bulk product facilities are likely to be constructed.
- An evaluation of the need and timing for requirements for the establishment of minimum ballast levels for field-erected aboveground storage tanks at bulk product facilities.
- An evaluation of the need and feasibility for requirements for temporary and permanent anchoring systems.
- An evaluation of the need for potential siting considerations or engineering mitigation that would prevent or limit the installation of new field-erected aboveground storage tank systems at bulk product facilities in areas that are potentially high risk areas for hurricane winds and storm surge.
- Identification of all current and proposed industry standards for professionally engineered dike-fields surrounding field-erected aboveground storage tanks at bulk product facilities.

The study is to include recommendations for changes, if needed, to aboveground storage tank system laws and agency rules in order to decrease damage from hurricanes and improve recovery of field-erected aboveground storage tank systems after storm damage. All recommendations must be accompanied by a cost-benefit analysis which is to include an analysis of:

- The costs for modifying existing field-erected aboveground storage tank systems and dike fields, and the costs associated with new construction of field-erected aboveground storage tank systems and dike fields, to meet any proposed new requirements; and
- The potential adverse effect on petroleum inventory capacity in Florida resulting from any proposed new requirements. All industry segments with field-erected aboveground storage tanks shall be included in the petroleum inventory capacity analysis (e.g. petroleum, electric utility, etc.).

[12] http://www.uscgstormwatch.com/go/doc/1008/87976/

The department is required to report the findings and recommendations of the study to the Governor, the President of the Senate, and the Speaker of the House of Representatives by March 1, 2008.

The DEP is authorized to use up to $250,000 from the Inland Protection Trust Fund for the 2006-2007 and 2007-2008 fiscal years to pay the expenses of the study.

Environmental Impacts from Oil and Natural Gas Drilling in the Eastern Gulf of Mexico

The bill also requires the DEP to review and compile existing data and information to evaluate the environmental risks from all activities associated with the possible future exploration for and production of oil and natural gas in the eastern Gulf of Mexico currently subject to federal moratoria.

The bill requires the DEP to immediately request from the appropriate state agencies and private research institutes all available data and information needed by DEP to complete the evaluation. The appropriate state agencies must submit the data and information to the department at the earliest possible date. Private research institutes that may have such data and information are encouraged to submit relevant data and information to DEP to the maximum extent practicable. The DEP's effort are also to include data and information available through appropriate federal executive branch agencies.

The DEP's evaluation must take into consideration current technologies for controlling discharges from oil and gas exploration rigs and production platforms, and must include, but need not be limited to:

- Evaluating the probability of a discharge from oil and gas exploration rigs and production platforms.
- Evaluating the magnitude of any probable discharge from oil and gas exploration rigs and production platforms.
- Evaluating Gulf of Mexico currents and circulation patterns and the likelihood of any probable discharge reaching Florida's coastal waters and shorelines.
- Evaluating the environmental impacts of any probable discharge on the fish and wildlife resources in Florida's coastal waters.

The DEP is required to present to the Governor, the President of the Senate, and the Speaker of the House of Representatives the results of its evaluation within 120 days after the effective date of the act.

C. SECTION DIRECTORY:

Section 1. Directs the DEP to contract for a study relating to risk and potential adverse effects of hurricane wind and storm surge on field-erected aboveground storage tank systems at bulk product facilities.

Section 2. Provides an appropriation for the study required by Section 1.

Section 3. Directs the DEP to review and compile existing data and information to evaluate the environmental risks from all activities associated with the possible future exploration for and production of oil and natural gas in the eastern Gulf of Mexico currently subject to federal moratoria.

Section 4. Provides an effective date.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None

2. Expenditures:

The DEP is authorized to use up to $250,000 from the Inland Protection Trust Fund for the 2006-2007 and 2007-2008 fiscal years to pay the expenses of the study relating to aboveground storage tanks as provided for in Section 1 of the bill.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None

2. Expenditures:

None

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None

D. FISCAL COMMENTS:

None

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable, because this bill does not appear to: require the counties or cities to spend funds or take an action requiring the expenditure of funds; reduce the authority that cities or counties have to raise revenues in the aggregate; or reduce the percentage of a state tax shared with cities or counties.

2. Other:

None

B. RULE-MAKING AUTHORITY:

The bill does not require the promulgation of rules by nor alter the rulemaking authority of any state agency.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None

IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES

On March 15, 2006, the Water and Natural Resources Committee adopted a strike-all amendment to HB 229. The strike-all amendment makes the following changes to the bill:

- Directs the DEP to contract for a study that evaluates the exposure risk and potential adverse effects of hurricane wind and storm surge on field-erected aboveground storage tanks at bulk product facilities.

- Provides that the DEP is authorized to use up to $250,000 from the Inland Protection Trust Fund for the 2006-2007 and 2007-2008 fiscal years to pay the expenses of the study relating to aboveground storage tanks .
- Directs the DEP to review and compile existing data and information to evaluate the environmental risks from all activities associated with the possible future exploration for and production of oil and natural gas in the eastern Gulf of Mexico currently subject to federal moratoria.

This analysis has been revised to reflect the strike-all amendment.

CHAMBER ACTION

The Water & Natural Resources Committee recommends the following:

Council/Committee Substitute

Remove the entire bill and insert:

A bill to be entitled

An act relating to the exploration, production, and storage of petroleum and natural gas; directing the Department of Environmental Protection to contract for a study of exposure risks and potential adverse effects of hurricane wind and storm surge on field-erected aboveground storage tank systems at bulk product facilities; providing requirements for the scope of the study; providing an appropriation from the Inland Protection Trust Fund for the cost of the study; directing the department to compile and review existing data and information relating to environmental risks associated with oil and natural gas exploration and production in the eastern Gulf of Mexico; providing requirements and criteria for the evaluation of such risks; requiring the department to submit a report to the Governor and the Legislature; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Study of exposure risks and potential adverse effects of hurricane wind and storm surge on field-erected aboveground storage tank systems at bulk product facilities.--

(1) The Department of Environmental Protection shall contract for a study to evaluate the exposure risks and potential adverse effects of hurricane wind and storm surge on field-erected aboveground storage tank systems, including tanks, piping, pumps, and related components, at bulk product facilities as defined in s. 376.031(3), Florida Statutes. The study's scope shall include, but need not be limited to:

(a) Evaluating the frequency, strength, and probability estimates for hurricane winds and storm surge on the coastal areas of the state where existing bulk product facilities are located and where new bulk product facilities are likely to be constructed.

(b) Evaluating the need and timing for requirements for the establishment of minimum ballast levels for field-erected aboveground storage tanks at bulk product facilities based on the frequency, strength, and probability estimates for hurricane winds and storm surge, and based on levels calculated by a professional engineer specific to each individual field-erected aboveground storage tank, taking into account the type of tank, the type of product stored, tank diameter, tank height, and other relevant factors.

(c) Evaluating the need and feasibility for requirements for:

1. Professionally engineered permanent anchoring systems for field-erected aboveground storage tanks in high-risk surge zones.

2. Professionally engineered temporary cable tie-down systems, which could be preconstructed or prefabricated and retained in storage until needed, that would not interfere with normal daily operations and that could be set up in advance of an approaching storm.

(d) Evaluating the need for potential siting considerations or engineering mitigation that would prevent or limit the installation of new field-erected aboveground storage tank systems at bulk product facilities in areas that are potentially high-risk areas for hurricane winds and storm surge unless the systems are designed and engineered to withstand hurricane winds and storm surge.

(e) Identifying all current and proposed industry standards for professionally engineered dike fields surrounding field-erected aboveground storage tanks at bulk product facilities, including standards for materials and designs that will withstand hurricane winds and storm surges yet allow access for emergency firefighting vehicles in accordance with industry reference standards contained in National Fire Protection Association publication NFPA No. 30.

(2) The study shall include recommendations for changes, if needed, to aboveground storage tank system laws and agency rules in order to decrease damage from hurricanes and improve recovery of field-erected aboveground storage tank systems after

storm damage. All recommendations shall be accompanied by a cost-benefit analysis, which shall include an analysis of:

(a) The costs for modifying existing field-erected aboveground storage tank systems and dike fields, and the costs associated with new construction of field-erected aboveground storage tank systems and dike fields, to meet any proposed new requirements.

(b) The potential adverse effect on petroleum inventory capacity in the state resulting from any proposed new requirements. All industry segments with field-erected aboveground storage tanks, including, but not limited to, those used for petroleum and electric utility, shall be included in the petroleum inventory capacity analysis.

(3) The department shall report the findings and recommendations of the study to the Governor, the President of the Senate, and the Speaker of the House of Representatives by March 1, 2008.

(4) The Department of Environmental Protection is authorized to use up to $250,000 from the Inland Protection Trust Fund for the 2006-2007 and 2007-2008 fiscal years for the cost of the study set forth in this section.

Section 2. Compilation and review of existing data and information relating to environmental risks associated with oil and natural gas exploration and production in the eastern Gulf of Mexico.--

(1) The Department of Environmental Protection shall compile and review existing data and information to evaluate the environmental risks from all activities associated with the

possible future exploration for and production of oil and natural gas in the eastern Gulf of Mexico currently subject to federal moratoria. The department shall immediately request from the appropriate state agencies and private research institutes all available data and information necessary to complete this task. The appropriate state agencies must submit the data and information to the department at the earliest possible date, and private research institutes are encouraged to submit relevant data and information to the maximum extent practicable. The department's effort shall include data and information available through appropriate federal executive branch agencies. To the maximum extent practicable, the department's efforts shall take into consideration current technologies for controlling discharges from oil and gas exploration rigs and production platforms and shall include, but need not be limited to:

(a) Evaluating the probability of a discharge from oil and gas exploration rigs and production platforms.

(b) Evaluating the magnitude of any probable discharge from oil and gas exploration rigs and production platforms.

(c) Evaluating the Gulf of Mexico currents and circulation patterns and the likelihood of any probable discharge's reaching the coastal waters and shorelines of the state.

(d) Evaluating the environmental impacts of any probable discharge on the fish and wildlife resources in the coastal waters of the state.

(2) The department shall report the findings of the evaluation to the Governor, the President of the Senate, and the

Speaker of the House of Representatives within 120 days after the effective date of this act.

Section 3. This act shall take effect upon becoming a law.

OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 471 CS Fish and Wildlife
SPONSOR(S): Troutman
TIED BILLS: **IDEN./SIM. BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) Water & Natural Resources Committee	7 Y, 0 N, w/CS	Winker	Lotspeich
2) Criminal Justice Committee	6 Y, 0 N, w/CS	Ferguson	Kramer
3) Agriculture & Environment Appropriations Committee	(W/D)		
4) State Resources Council		Winker KW	Hamby
5)			

SUMMARY ANALYSIS

The bill addresses several issues relating to penalties for violations of statutes and rules of the Fish and Wildlife Conservation Commission (FWCC) and several issues relating to hunting licenses. Specifically the bill:

- Amends s. 370.021, F.S., to provide that the penalties provided therein are limited to violations related to the *commercial* harvesting of marine fish.
- Creates a framework for penalties for violations of *recreational* fish and wildlife statutes and FWCC rules. The bill provides four levels of classifying violations based upon the seriousness of the violation along with commensurate penalties for each violation. Within each violation level, enhanced penalties are provided for repeat violations.
- Creates a framework for penalties for violations of statutes and FWCC rules relating to captive wildlife for personal use and exhibition.
- Creates the Wildlife Violators Compact which allows Florida to join 21 other compact member states in recognizing fish and wildlife violations by persons from member states and sharing such information among each member state.
- Authorizes FWCC to establish a "hunter mentoring" program by allowing an individual to defer the hunter safety course requirement for a hunting license for 1 year when the person is hunting under the direct supervision and in the physical presence of an adult who has successfully completed or is exempt from the requirement of a hunter safety course.
- Removes the current requirement that the FWCC's hunter safety course consists of no less than 12 hours of instruction, while maintaining the current requirement that the course consists of no more than 16 hours of instruction.
- Acknowledges the creation of a crossbow season permit (during the archery and muzzleloading seasons) and imposes a $5 annual fee for such permit.
- Increases the fee for an annual sportsman's license from $66 to $71 and for an annual gold sportsman's license from $82 to $87.

The bill has an unknown, but minimal, fiscal impact since no data exists on the expected number of persons who might take advantage of the hunter safety certification deferral provisions of the bill.

The bill takes effect on October 1, 2006.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Ensure lower taxes - The bill increases the fee for an annual sportsman's license from $66 to $71 and an annual gold sportsman's license from $82 to $87 and imposes a $5 fee for an annual crossbow season permit.

B. EFFECT OF PROPOSED CHANGES:

PRESENT SITUATION

The Fish and Wildlife Conservation Commission (FWCC) is a constitutionally created agency.[1] As such, it has exclusive regulatory powers with respect to wildlife, freshwater aquatic life, and marine life. The Legislature is limited by the Constitution to enacting laws establishing license fees and penalties for violating FWCC regulations, and enacting laws in aid of the FWCC.

Penalties

Currently, penalties for violations of laws and regulations relating to fish and wildlife are found in Chapter 370, F.S., (marine resources) and Chapter 372, F.S., (freshwater fish and wildlife).

Marine Resources
Subsections 370.021(1) and (2), F.S., provide for penalties for violations of statutes and rules of the FWCC relating to the conservation of marine resources. Persons convicted of such violations may be punished for a first conviction by incarceration up to 60 days or by a fine of not less than $100 nor more than $500 or both incarceration and a fine. For a second or subsequent conviction within a 12 month period, incarceration may be up to 6 months and a fine of between $250 and $1,000 may be imposed. Additional penalties may be assessed for major violations of statutes and FWCC rules. Section 370.021, F.S., also provides penalties for violations relating to the use of illegal nets (s. 370.021(3), F.S.), illegal possession of certain finfish in excess of a commercial bag limit (s. 370.021(4), F.S.), and illegally harvesting products by unlicensed sellers and purchasers (ss. 370.021(5) and (6), F.S.).

Freshwater Fish and Wildlife
Currently, s. 372.83, F.S., provides for certain penalties for violations of statutes and FWCC rules relating to freshwater fish and wildlife. Subsection 372.83(1), F.S., provides for the imposition of non-criminal penalties pursuant to s. 372.711, F.S., which provides for civil penalties. Subsection 372.83(2), F.S., provides that certain regulations are punishable as a second degree misdemeanor pursuant to s. 775.082, F.S. Subsection 372.83(3), F.S., provides that the forgery of a hunting license or possession thereof is punishable as a third degree felony as provided in s. 775.082, s. 775.083, or s. 775.084, F.S.

Captive Wildlife
Sections 372.86 and 372.87, F.S., require that persons wanting to keep, possess, or exhibit any poisonous or venomous reptile must obtain a permit or license from the FWCC and pay an annual fee. Section 372.88, F.S., requires exhibitors of poisonous or venomous reptiles to post a bond conditioned that the exhibitor will indemnify and save harmless all persons from injury or damage, and that the exhibitor shall comply with all laws and rules for handling, housing, and exhibiting such animals. The provisions of Sections 372.89-92, F.S., also relate to poisonous or venomous reptiles and provide requirements for housing, transportation, inspection, rewards, and organized hunts for poisonous or venomous reptiles.

[1] Section 9, Article IV, Florida Constitution.

Sections 372.921 and 372.922, F.S., regulate the exhibition, sale and personal possession of wildlife.

Wildlife Violator Compact

The concept of a wildlife violator compact was first discussed in the early 1980s by several states in the Western Association of Fish and Wildlife Agencies. The compact was modeled after a Drivers License Compact which provided for reciprocity between compact member states to recognize each state's driver's licenses and to share with each state driver's violations and information on suspended and revoked driving licenses. In 1989, three states (Colorado, Nevada, and Oregon) were the first states to become member states of the wildlife violator compact.

The wildlife violator compact is a multi-state approach to the enforcement of hunting and fishing violations. Any suspension of fish and game license privileges resulting from a person's failure to comply with a citation or summons and complaint in a compact member's state will also be enforced by all other states participating in the compact. If a resident of a state that is participating in the compact is convicted of a fish and game violation in one of the member states, each compact state is notified and is required to treat the conviction as if it had occurred in that state for purposes of determining any applicable license restrictions or suspensions.

Currently, there are 21 states participating in the compact: Arizona, California, Colorado, Georgia, Idaho, Indiana, Iowa, Kansas, Maryland, Michigan, Minnesota, Montana, Nevada, New Mexico, New York, North Dakota, Oregon, South Dakota, Utah, Washington, and Wyoming.

The compact is overseen by a board of administrators, consisting of one representative from the fish and wildlife agency or department of each participating state.

Hunting Licenses

Section 372.561, F.S., requires the FWCC to issue a license to take wild animal life when an applicant provides proof that he or she is eligible for the license. Hunting licenses may be sold by the FWCC or any tax collector in the state or by any subagent (for example, hunting supply stores) authorized by s. 372.574, F.S.

FWCC reported that in FY 2000-2001, there were 178,069 hunting licenses purchased in Florida. The number of Florida hunting licenses purchased since then has declined to 157,299 in FY 2004-2005. The number of hunting licenses purchased in Florida does not represent the number of persons (residents and non-residents) who are actually hunting, since Florida law exempts a number of persons from the hunting licenses requirement. In 2001, the U.S. Fish and Wildlife Service conducted a national survey of hunting, fishing and wildlife-associated recreation activities and estimated that Florida had 226,000 hunters.

Section 372.57, F.S., provides that an annual sportsman's license costs $66, except for persons age 64 and older the fee is $12. This license allows a person to take game and freshwater fish. An annual gold sportsman's license costs $82 and allows a person to take freshwater fish, saltwater fish, and game.

Exemptions from Requiring Hunting Licenses

Section 372.562, F.S., provides certain residents of Florida an exemption from paying a fee for a hunting license. Any resident who is certified or determined to be totally or permanently disabled for purposes of workers' compensation under chapter 440, F.S., under the provisions of the Railroad Retirement Board, by the U.S. Department of Veterans Affairs, or under the provisions of the U.S. Social Security Administration, is eligible for a hunting license at no cost. A hunting license obtained under this fee exemption after January 1, 1997, expires after 5 years and must be reissued, upon request, every 5 years. A person qualifying for this exemption under the Social Security Administration must renew the license every 2 years.

Section 372.562(2), F.S., provides that the following persons are exempt from having a hunting license:

- Any child under age 16;

- Any person hunting on his or her homestead property or the homestead property of the person's spouse or minor child;
- Any resident who is a member of the United State Armed Forces and not stationed in this state, when home on leave for 30 days or less; or
- Any resident age 65 or older.

Hunting licenses are non-transferable and must be in the personal possession of the person while taking or attempting to take wild animal life.

Hunter Safety Course

Section 372.5717, F.S., addresses the requirement for a hunter safety course as a condition for obtaining a hunting license and provides that:

- Persons born after June 1, 1975, may not be issued a hunting license without first successfully completing a hunter safety course and having in their possession a hunter safety certification card.
- The FWCC institute and coordinate a statewide hunter safety course to be offered in every county. The course must consist of no less than 12 hours and no more than 16 hours of instruction, including, but not limited to, instruction in the competent and safe handling of firearms, conservation, and hunting ethics.
- The FWCC issue a permanent hunter safety certification card to each person who successfully completes the hunter safety course. FWCC must also maintain records of each person issued a certification card and provide procedures for persons to seek a replacement card.
- A hunter safety certification card issued by any other state or Canadian province which shows that the person has successfully completed a hunter safety course approved by the FWCC, shall be an acceptable substitute for the hunter safety certification card issued by the FWCC.
- Persons not exempt from having a hunting license, have in their personal possession while hunting or purchasing a hunting license, proof of compliance with the hunter safety course requirements, including possessing the hunter safety certification card.
- A non-criminal penalty may be imposed on persons who violate the provisions and requirements of the hunter safety course requirements.
- The FWCC develop a voluntary hunter safety course statewide for youth 5 to 15 years of age. This course is not a substitute for the required hunter safety course described above.

The FWCC offers the state's hunter safety course through two general methods. One method is an in-class 12-hour course with the successful completion of a test, and a 3-hour experience at a firing range. The second option is either a CD or internet course for persons who wish to take advantage of this option. Persons can register on-line to take the hunter safety course, take on-line quizzes, and then are required to take a 4-hour classroom test and a 3-hour firing range experience.

International Hunter Education Association

The International Hunter Education Association (IHEA) is a national organization which is affiliated with the International Association of Fish and Wildlife Agencies and which represents the interests of 69 states, provincial, and federal hunter education coordinators, and 70, 000 hunter education instructors who teach hunter safety, ethics, and conservation courses to hunters.

The goals of the IHEA are to:

- Serve as the primary resource for information on hunter education;
- Promote hunter education by providing opportunities for the exchange of experiences;
- Promote hunter education by fostering cooperative efforts between government, organized groups, and industry;
- Uphold the image of hunting as a legitimate tool of wildlife management;
- Promote programs which prevent hunting accidents;
- Cultivate honesty, self-discipline, self-reliance, and responsible behavior among hunters; and
- Strive for constant improvement in hunter education programs.

According to the IHEA, state fish and game agencies began offering hunter safety programs in 1949.

All states, including Florida, are currently members of the IHEA. The IHEA does not regulate, nor does it have an accreditation program for any state's hunter safety course program.

The IHEA does have standards and a model hunter safety course program which states are free to adopt. Each state sets its own hunter safety education program regulations and regulates the program within its own jurisdiction. Each state (including the FWCC) has a coordinator/administrator responsible for the hunter safety program and ensures that the program adheres to IHEA standards which allow for reciprocity.

Reciprocity means that a hunter safety course taken in one state will be honored in all other states. Should a state's hunter safety program not meet IHEA standards, the certification for the hunter safety course may not be accepted by other states. Currently, according to IHEA staff, all states meet standards.

The IHEA model hunter safety program can be viewed and taken on-line at http://homestudy.ihea.com/contents_checklist.htm . The website lists the content areas for the hunter safety course. Besides general content on hunting, the IHEA hunter safety course has content on: firearms; ammunition; firearm safety; shooting skills; hunting safety and skills; hunter responsibility and ethics; and wildlife.

Hunter Mentoring Programs

Florida does not currently have a hunter mentoring program. However, there is current authorization for persons under the age of 16 to participate in hunting activities without needing a hunting license when they hunt in the presence of a parent or guardian (s. 372.562, F.S.)

Several other states have established hunter mentoring programs. For example, Wisconsin recently established a hunter mentoring program which allows persons above the age of eight who have not taken a hunter safety course to hunt with an adult mentor under highly controlled and safe circumstances.

The Wisconsin hunter mentoring program requires that the mentor must have the person within "arm's reach" at all times while hunting. No person may serve as a hunter mentor unless they are at least 18 years of age, and all mentors born after 1973 must have successfully completed the state's hunter safety program. The mentor must be the parent or guardian of the person for whom he or she is serving as a mentor, or be authorized by the parent or guardian to serve as a mentor. This requirement does not apply to a person serving as a mentor for a person who is 18 years of age or older. A person who is authorized to hunt with a mentor and the mentor with whom the person hunts may jointly have only one firearm or one bow in their possession or control while hunting. A mentor may take only one person at a time for which he or she is serving as a mentor. Finally, the program requires the development of an information pamphlet containing hunter safety information to be given to persons hunting with a mentor.

The Department of Texas Parks and Wildlife has had a hunter mentoring program since 2004. The program allows a person 17 or older, who has not taken and successfully completed a hunter education course, to defer the completion of the course and purchase a special deferral hunting license for a $10 fee in addition to the regular hunting license fee. The deferral hunting license can only be purchased on a one-time basis and is effective until August 31 of the same year the deferral hunting license was purchased.

Under the Texas hunter education deferral program, a hunter with a deferral hunting license must be accompanied (within range of normal voice communication) by another licensed hunter 17-years-of-age or older who has completed and passed the hunter education program or is otherwise exempt from the hunter education program. Proof of hunter safety certification or the deferral must be on the person

while hunting. A person who has been convicted of or has received a deferred adjudication for a violation of the mandatory hunter education requirement is prohibited from purchasing a deferral.

Texas also has a hunter mentoring program for persons who have qualified as certified hunter safety instructors, but for whatever reasons have been reluctant to use their acquired knowledge and skills in hunting safety to teach courses for other hunters. The mentoring program is targeting new hunter education instructors and provides an opportunity for these instructors to team up with a seasoned more experienced hunting safety instructor who will help organize classes and provide support for the new hunter education instructor.

Crossbow Hunting

The use of crossbows for hunting is not currently allowed in Florida. In September 2004, the FWCC reviewed the issue of allowing the use of crossbows during the muzzleloading hunting season. FWCC staff were directed to determine what Florida hunters' opinions were on this issue. FWCC contracted with the Florida State University Government Performance Survey Research Center to conduct the survey. Findings from a random sample of Florida hunters indicated that 7% owned a crossbow and 2% said they had used a crossbow to hunt deer in the previous 3 years. About 45% of those surveyed favored a change to allow the use of crossbows on *wildlife management areas and public lands* during the archery season and 44% favored a change to allow the use of crossbows during the muzzleloading season. Approximately 51% favored a change to allow the use of crossbows on *private lands* during the archery season and 52% favored use during the muzzleloading season.

According to FWCC staff, the use of crossbows during archery and/or muzzleloading gun seasons is allowed in several states including Georgia, Alabama, Arkansas, Wyoming, and Ohio.

Based upon the results of the survey, FWCC staff recommended that rule changes be made that permitted the use of crossbows during archery and muzzleloading hunting seasons.

In February 2006, the FWCC approved the adoption of proposed rules (68A-13.004, 68A-12.002, and 68A-1.004) that establish new crossbow seasons during archery and muzzleloading hunting seasons.

EFFECT OF PROPOSED CHANGES

Penalties

Marine Resources

The bill amends s. 370.021, F.S., to provide that the penalties provided therein are limited to violations related to the *commercial* harvesting of marine fish. The bill provides a definition of "commercial harvest." Penalties for violations of laws and regulations relating to the *recreational* taking of marine fish are provided in the newly created s. 372.83, F.S. The bill does not make any changes in the penalties.

Freshwater Fish and Wildlife

The bill amend s. 372.83, F.S., which establishes a framework for penalties that are applied to violations of *recreational* fish (freshwater and saltwater) and wildlife statutes and rules of the FWCC. The bill provides four levels of classifying violations based upon the seriousness of the violation along with commensurate penalties for each violation.

A Level 1 violation constitutes noncriminal infractions punishable by the imposition of a civil penalty of $50 for the first conviction and $250 for each subsequent conviction. Citations shall be issued for these violations and the citation shall include a requirement for appearance before the county court. A person who willfully refuses the citation or who willfully fails to pay the civil penalty commits a misdemeanor of the second degree. Included in the list of Level 1 violations are violations of:

- FWCC rules or orders relating to quota hunting permits, and daily use permits
- Statutory provisions relating to hunting, fishing and trapping licenses

- Statutory provisions relating to hunter safety certification
- Statutory provisions relating to required clothing for persons hunting deer

A Level 2 violation constitutes a first degree misdemeanor. A first conviction is punishable under s. 775.082, F.S. (relating to sentencing), or s. 775.083, F.S. (relating to fines). Persons convicted of subsequent Level 2 violations are subject to increasing amounts of fines and license suspensions. Included in the list of Level 2 violations are violations of:

- FWCC rules or orders relating to the season, bag limits and size limits for saltwater fish, freshwater game fish, and wildlife
- FWCC rules or orders relating to access to wildlife management areas
- FWCC rules or orders relating to landing requirements for saltwater fish and freshwater game fish
- FWCC rules or orders relating to the use of dogs for hunting
- Statutory provisions relating to bonefish and crawfish
- Statutory provisions relating to feeding of alligators and crocodiles

A Level 3 violation also constitutes a first degree misdemeanor punishable under s. 775.082 or s. 775.083, F.S. As with Level 2 violations, persons convicted of subsequent Level 3 violations are subject to increasing amounts of fines and license suspensions. Included in the list of Level 3 violations are violations of:

- FWCC rules or orders relating to the sale of saltwater fish
- Statutory provisions relating to "major violations"
- Statutory provisions relating to the taking of saltwater fish with nets
- Statutory provisions relating to hunting and fishing while a license is suspended or revoked
- Statutory provisions relating to the illegal sale or possession of alligators, and the illegal taking and possession of deer and wild turkey

A Level 4 violation constitutes a felony of the third degree punishable under s. 775.082 or s. 775.083, F.S. Level 4 violations include violations of:

- Statutory provisions relating to the molestation of stone crab, blue crab, and crawfish gear
- Statutory provisions relating to forgery of a license or possession of a forged license
- Statutory provisions relating to the sale of deer or turkey that is illegally taken

Captive Wildlife

The bill creates s. 372.935, F.S., relating to captive wildlife penalties. This section establishes a framework which provides four levels of classifying violations based upon the seriousness of the violation along with commensurate penalties for each violation.

A Level 1 violation constitutes noncriminal infraction punishable by the imposition of a civil penalty of $50 for the first conviction and $250 for each subsequent conviction; an additional civil penalty, in the amount of the license fee required, shall be assessed for failing to have a required permit or license.

Any person who willfully refuses to post bond or accept and sign a citation is guilty of a second degree misdemeanor. Any person who fails to pay the civil penalty within 30 days or fails to appear is guilty of a second degree misdemeanor.

Any person electing to appear before the county court or who is required to appear shall be deemed to have waived the limitations on the civil penalty. The court, after a hearing, shall determine whether an infraction has been committed. The court may impose a civil penalty (not less than $50 for first conviction or $250 for a subsequent conviction) or more than $500 if the commission of the infraction as been proven beyond a reasonable doubt. A person found to have committed an infraction may appeal that finding to circuit court.

Included in the list of Level 1 violations are violations of:

- FWCC rules or orders of the requiring free permits or other authorizations to possess captive wildlife.
- FWCC rules or orders of the relating to the filing of reports or other documents required of persons who are licensed to possess captive wildlife.
- FWCC rules or orders of the requiring permits to possess captive wildlife that a fee is charged for, when the person being charged was issued the permit and the permit has expired less than 1 year prior to the violation.

A Level 2 violation constitutes a second degree misdemeanor. A first conviction is punishable under s. 775.082, F.S. (relating to sentencing), or s. 775.083, F.S. (relating to fines). Persons convicted of subsequent Level 2 violations are subject to increasing amounts of fines and license suspensions.

Included in the list of Level 2 violations are violations of:

- FWCC rules or orders that require a person to pay a fee to obtain a permit to possess captive wildlife or that require the maintenance of records relating to captive wildlife unless stated in subsection (1).
- FWCC rules or orders relating to captive wildlife not specified in subsection (1) or (3).
- FWCC rules or orders which require housing of wildlife in a safe manner when a violation results in an escape of wildlife other than Class I wildlife.
- S. 372.86, F.S., relating to possessing or exhibiting reptiles.
- S. 372.87, F.S., relating to licensing or reptiles.
- S. 372.88, F.S., relating to bonding requirements for exhibits.
- S. 372.89, F.S., relating to housing requirements.
- S. 372.90, F.S., relating to transportation.
- S. 372.901, F.S., relating to inspection.
- S. 372.91, F.S., relating to limitation of access to reptiles.
- S. 372.921, F.S., relating to exhibition or sale of wildlife.
- S. 372.922, F.S., relating to personal possession of wildlife.

A Level 3 violation constitutes a first degree misdemeanor punishable under s. 775.082 or s. 775.083, F.S. if they have not been previously convicted within the past 10 years. A level 3 violation within the past 10 years is a first degree misdemeanor with a minimum mandatory fine of $750 and a suspension of all licenses issued under this chapter relating to captive wildlife for 3 years.

Included in the list of Level 3 violations are violations of:

- FWCC rules or orders which require housing of wildlife in a safe manner when a violation results in an escape of wildlife other than Class I wildlife.
- FWCC rules or orders related to captive wildlife when the violation results in serious bodily injury to another person.
- FWCC rules or orders relating to the use of gasoline, other chemicals, or gaseous substances on wildlife.
- FWCC rules or orders prohibiting the release of wildlife for which only conditional possession is allowed.
- FWCC rules or orders prohibiting knowingly entering false information on an application for a license or permit to possess captive wildlife.
- S. 372.265, F.S., relating to illegal importation or introduction of foreign wildlife.

A Level 4 violation constitutes a felony of the third degree punishable under s. 775.082 or s. 775.083, F.S., with a permanent revocation of all licenses or permits to possess captive wildlife under this chapter.

Level 4 violations include violations of:

- S. 370.081, F.S., relating to the illegal importation and possession of nonindigenous marine plants and animals.
- S. 370.92, F.S., relating to release of reptiles of concern.
- FWCC rules or orders relating to the importation, possession, or release of fish and wildlife for which possession is prohibited.

Wildlife Violators Compact
The bill creates the Wildlife Violators Compact which allows Florida to join 21 other compact member states in recognizing fish and wildlife violations by persons from member states and sharing such information among each member state. The Compact specifically provides for:

- Findings relating to the management of wildlife resources
- Definitions
- Procedures for the state issuing a citation
- Procedures for the licensing authority of the home state of the violator
- Reciprocal recognition of a license suspension
- Procedures for the entry into and withdrawal from the Compact

Hunting Licenses

Hunter Mentoring Program
The bill amends s. 372.5717, F.S., to authorize the FWCC to defer the hunter safety course requirement for one year and issue a restricted hunting license to persons wanting to try out hunting. Such persons may receive only one deferment and a person with a restricted hunting license can only hunt under the direct supervision and in the physical presence of an adult who has successfully completed or is exempt from completing the required hunter safety course.

For those persons hunting under the deferral provisions of the bill, the bill provides an exemption from the current requirement that a hunter safety course certification must be in the person's possession while hunting or when purchasing a hunting license.

Hunter Safety Course
The bill also amends s. 372.5717, F.S., to remove the current requirement that the FWCC's hunter safety course consist of no less than 12 hours of instruction, while maintaining the current requirement that the course consist of no more than 16 hours of instruction.

Crossbow Hunting Seasons
The bill amends s. 372.57, F.S., to acknowledge the creation of a crossbow season permit (during the archery and muzzleloading seasons) and to impose of a $5 annual fee for such permit.

Hunting Licenses Fee Increases
The bill increases the fee for an annual sportsman's license from $66 to $71 and an annual gold sportsman's license from $82 to $87.

C. SECTION DIRECTORY:

Section 1: Amends s. 370.01, F.S., to define "commercial harvest" to mean the taking, harvesting, or attempting to harvest saltwater products for sale or with intent to sell.

Section 2: Amends s. 370.021, F.S., to provide base penalties and to clarify that this section applies exclusively to commercial harvesting.

Section 3: Amends s. 370.028, F.S. to conform penalty provisions.

Section 4: Amends s. 370.061, F.S., to correct a cross reference.

Section 5: Amends s. 370.063, F.S., to conform penalty provisions for commercial harvesters.

Section 6: Amends s. 370.08,F.S., to conform penalty provisions for commercial harvesters.

Section 7: Amends s. 370.081,F.S., to conform penalty provisions for commercial harvesters.

Section 8: Amends s. 370.1105,F.S., to conform penalty provisions for commercial harvesters.

Section 9: Amends s. 370.1121,F.S., to conform penalty provisions for commercial harvesters.

Section 10: Amends s. 370.13,F.S., to conform penalty provisions for commercial harvesters.

Section 11: Amends s. 370.135,F.S., to conform penalty provisions for commercial harvesters.

Section 12: Amends s. 370.14,F.S., to conform penalty provisions for commercial harvesters.

Section 13: Amends s. 370.142,F.S., to conform penalty provisions for commercial harvesters.

Section 14: Amends s. 372.57,F.S., to provide for a crossbow season permit and increase certain license fees.

Section 15: Amends s. 372.5704, F.S., to conform penalty provisions.

Section 16: Amends s. 372.571, F.S., to correct cross references.

Section 17: Amends s. 372.5717, F.S., to authorize the FWCC to waive the hunter safety education course for 1 year and issue a one-time restricted hunting license to persons wanting to hunt.

Section 18: Amends s. 372.573, F.S., to correct cross references.

Section 19: Amends s. 372.83, F.S., to create four levels of violations with commensurate penalties of higher severity.

Section 20: Creates s. 372.935, F.S., to provide penalties relating to captive wildlife.

Section 21: Amends s. 372.26, F.S., to conform penalty provisions.

Section 22: Amends s. 372.265, F.S., to conform penalty provisions.

Section 23: Amends s. 372.661, F.S., to conform penalty provisions.

Section 24: Amends s. 372.662, F.S., to conform penalty provisions.

Section 25: Amends s. 372.667, F.S., to conform penalty provisions.

Section 26: Amends s. 372.705, F.S., to conform penalty provisions.

Section 27: Amends s. 372.988, F.S., to conform penalty provisions.

Section 28: Amends s. 372.99022, F.S., to conform penalty provisions.

Section 29: Amends s. 372.99, F.S., to conform penalty provisions.

Section 30: Amends s. 372.9903, F.S., to conform penalty provisions.

Section 31: Creates s. 372.831, F.S., to adopt in statute the Wildlife Violator Compact.

Section 32: Creates s. 372.8311, F.S., to provide that FWCC is the licensing authority for the state to enforce the provisions of the Wildlife Violator Compact.

Section 33: Repeals ss. 372.711, F.S., (relating to noncriminal infractions) and 372.912, F.S., (relating to organized poisonous reptile hunts).

Section 34: Provides an effective date of October 1, 2006.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

   See Fiscal Comments below.

2. Expenditures:

   See Fiscal Comments below.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

   None.

2. Expenditures:

   None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The bill would have a positive impact on the private sector depending on the number of persons participating in and using the hunter safety education deferral provisions of the bill, purchasing a hunting license at the increased rate (annual sportsman's license increased from $66 to $71 and an annual gold sportsman's license increased from $82 to $87), and in turn, purchasing hunting equipment and supplies.

D. FISCAL COMMENTS:

FWCC has determined that there will be minimal, if any, additional costs associated with the proposed penalties section of the bill. However, it is possible that there could be an increase in the amount of revenue received from the enhanced penalties for certain repeat offenders.

FWCC has determined that no additional funds will be needed to implement the Wildlife Violator Compact. Currently, the Wildlife Violator's Compact database is hosted by the Utah Department of Public Safety (Criminal Investigation Bureau). The database was developed to answer the needs of participating member states, to exchange basic identification information, and conviction information about revokees subject to reciprocal revocation.

FWCC has determined that the revenue impacts from the hunter safety education deferral provisions of the bill and the purchase of hunting licenses are unknown since FWCC has no estimates of the number of persons who may participate in this program. Unlike the Texas hunter mentoring program, the bill does not provide for a fee in addition to the normal hunting license fee. FWCC views the revenue impact of the bill as less important than using the mentoring and deferral provisions of the bill to "...remove obstacles and increase efforts to engage new hunters..." in order to reverse the trend of declining hunters in Florida.

FWCC estimates that there would be minimal costs associated with programming its Total Licensing System (TLS), which produces the state's hunting licenses, in issuing and identifying a one-year-option deferral hunting license. A person seeking the special deferral hunting license would purchase a regular hunting license at the regular cost and declare that they do not have the required hunter safety education certificate. The TLS and the actual hunting license would identify that the person is using the deferral option. Since the deferral option is only valid for one-year, the TLS would be programmed to deny the purchase of a subsequent hunting license if the person has not successfully completed the hunter safety course and produced the certification documentation at the time of the purchase.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

The bill does not appear to require cities or counties to spend funds or take actions requiring the expenditure of funds, reduce the authority that cities or counties have to raise revenues in the aggregate, or reduce the percentage of a state tax shared with cities or counties.

2. Other:

Pursuant to Article IV, Section 9 of the Florida Constitution, the FWCC has the authority to "exercise the regulatory and executive powers of the state with respect to" fresh water aquatic life, marine life, and wild animal life. The Legislature may only "enact laws in aid of" the FWCC not inconsistent with the Constitutional provision. The bill appears to be "in aid of" the FWCC and does not appear to be inconsistent with the Constitution.

B. RULE-MAKING AUTHORITY:

The bill does not require the promulgation of rules nor alter the rulemaking authority of any state agency.

C. DRAFTING ISSUES OR OTHER COMMENTS:

Although the effective date for the bill is October 1, 2006, this effective date may not provide for sufficient time for the FWCC law enforcement and court systems to make the necessary changes related to the new penalty structure. Also, sufficient notice of the new penalty structure needs to be given to the persons who are purchasing hunting and fishing licenses.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES

On February 22, 2006, the Water and Natural Resources Committee adopted a strike-all amendment to HB 471. The strike-all amendment makes the following changes to the bill:

- Limits the penalties in s. 370.021, F.S., to commercial harvesting of saltwater fish.
- Creates a framework for and enhances penalties for violations of recreational fish and wildlife statutes and FWCC rules.
- Creates penalties for violations of statutes and rules related to the possession and exhibition of captive wildlife.
- Creates the Wildlife Violators Compact in statute allowing Florida to join 21 other states in recognizing fish and wildlife violations.
- Amends s. 372.57, F.S., to acknowledge the creation of a crossbow season permit (during the archery and muzzleloading seasons) and to impose of a $5 annual fee for such permit.
- Increases the fees for certain hunting and fishing licenses.

On April 4th, 2006, the Criminal Justice Committee adopted a strike-all amendment to HB 471 which made technical changes and an amendment to the strike-all amendment.

The amendment to the strike-all amendment creates s. 372.935, F.S., relating to captive wildlife penalties which establishes a framework (similar to the framework for violations of recreational fish and wildlife statutes and FWCC rules) that provides four levels of classifying violations based upon the seriousness of the violation along with commensurate penalties for each violation.

This analysis has been revised to reflect the strike-all amendment and the amendment to the strike-all amendment.

CHAMBER ACTION

The Criminal Justice Committee recommends the following:

Council/Committee Substitute

Remove the entire bill and insert:

A bill to be entitled

An act relating to fish and wildlife; amending s. 370.01, F.S.; defining the term "commercial harvester"; amending s. 370.021, F.S.; providing for base penalties; conforming penalty provisions for commercial harvesters; providing penalties for persons other than commercial harvesters; amending s. 370.028, F.S.; conforming penalty provisions; amending s. 370.061, F.S.; correcting a cross-reference; amending ss. 370.063, 370.08, 370.081, 370.1105, 370.1121, 370.13, 370.135, 370.14, and 370.142, F.S.; conforming penalty provisions for commercial harvesters; providing penalties for persons other than commercial harvesters; amending s. 372.57, F.S.; specifying seasonal recreational activities for which a license or permit is required; increasing fees for certain licenses to conform; providing fees for crossbow and archery season permits; providing for crossbow and archery season permits; providing penalties for the production, possession, and use of fraudulent fishing and hunting licenses; providing

penalties for the taking of game and fish with a suspended or revoked license; amending s. 372.5704, F.S.; conforming penalty provisions; amending ss. 372.571 and 372.573, F.S.; correcting cross-references; amending s. 372.5717, F.S.; authorizing the Fish and Wildlife Conservation Commission to defer the hunter safety education course requirement for a specified time period and for a specified number of times; providing for special authorization and conditions to hunt using a hunter safety education deferral; deleting the mandatory minimum number of instructional hours for persons required to take the hunter safety education course; providing an exemption for the display of hunter safety education certificates; providing penalties; amending s. 372.83, F.S.; revising the penalties for violations of rules, orders, and regulations of the Fish and Wildlife Conservation Commission; creating penalties for recreational violations of certain saltwater fishing regulations established in ch. 370, F.S.; providing for court appearances in certain circumstances; providing for Level One, Level Two, Level Three, and Level Four offenses; providing for enhanced penalties for multiple violations; providing for suspension and revocation of licenses and permits, including exemptions from licensing and permit requirements; defining the term "conviction" for purposes of penalty provisions; creating s. 372.935, F.S.; providing penalties for violations involving captive wildlife and poisonous or venomous reptiles; specifying

violations that constitute noncriminal infractions or second degree misdemeanors; amending ss. 372.26, 372.265, 372.661, 372.662, 372.667, 372.705, 372.988, 372.99022, 372.99, and 372.9903, F.S.; conforming penalty provisions; creating s. 372.831, F.S.; creating the Wildlife Violators Compact; providing findings and purposes; providing definitions; providing procedures for states issuing citations for wildlife violations; providing requirements for the home state of a violator; providing for reciprocal recognition of a license suspension; providing procedures for administering the compact; providing for entry into and withdrawal from the compact; providing for construction of the compact and for severability; creating s. 372.8311, F.S.; providing for enforcement of the compact by the Fish and Wildlife Conservation Commission; providing that a suspension under the compact is subject to limited review under ch. 120, F.S.; providing that actions taken by another state or its courts are not reviewable; repealing s. 372.711, F.S., relating to noncriminal infractions; repealing s. 372.912, F.S., relating to organized poisonous reptile hunts; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Present subsections (5) through (28) of section 370.01, Florida Statutes, are redesignated as subsections (6)

through (29), respectively, and a new subsection (5) is added to that section to read:

370.01 Definitions.--In construing these statutes, where the context does not clearly indicate otherwise, the word, phrase, or term:

(5) "Commercial harvester" means any person, firm, or corporation that takes, harvests, or attempts to take or harvest saltwater products for sale or with intent to sell as evidenced by any of the following:

(a) The person, firm, or corporation is operating under or is required to operate under a license or permit or authorization issued pursuant to this chapter;

(b) The person, firm, or corporation is using gear that is prohibited for use in the harvest of recreational amounts of any saltwater product being taken or harvested; or

(c) The person, firm, or corporation is harvesting any saltwater product in an amount that is at least 2 times the recreational bag limit for the saltwater product being taken or harvested.

Section 2. Subsections (1), (2), (4), (5), (6), and (12) of section 370.021, Florida Statutes, are amended to read:

370.021 Administration; rules, publications, records; penalties; injunctions.--

(1) BASE PENALTIES.--Unless otherwise provided by law, any ~~person, firm, or corporation~~ who violates ~~is convicted for violating~~ any provision of this chapter, or any rule of the Fish and Wildlife Conservation Commission relating to the conservation of marine resources, shall be punished:

(a) Upon a first conviction, by imprisonment for a period of not more than 60 days or by a fine of not less than $100 nor more than $500, or by both such fine and imprisonment.

(b) On a second or subsequent conviction within 12 months, by imprisonment for not more than 6 months or by a fine of not less than $250 nor more than $1,000, or by both such fine and imprisonment.

Upon final disposition of any alleged offense for which a citation for any violation of this chapter or the rules of the commission has been issued, the court shall, within 10 days, certify the disposition to the commission.

(2) MAJOR VIOLATIONS.--In addition to the penalties provided in paragraphs (1)(a) and (b), the court shall assess additional penalties against any commercial harvester ~~person, firm, or corporation~~ convicted of major violations as follows:

(a) For a violation involving more than 100 illegal blue crabs, crawfish, or stone crabs, an additional penalty of $10 for each illegal blue crab, crawfish, stone crab, or part thereof.

(b) For a violation involving the taking or harvesting of shrimp from a nursery or other prohibited area, or any two violations within a 12-month period involving shrimping gear, minimum size (count), or season, an additional penalty of $10 for each pound of illegal shrimp or part thereof.

(c) For a violation involving the taking or harvesting of oysters from nonapproved areas or the taking or possession of

unculled oysters, an additional penalty of $10 for each bushel of illegal oysters.

(d) For a violation involving the taking or harvesting of clams from nonapproved areas, an additional penalty of $100 for each 500 count bag of illegal clams.

(e) For a violation involving the taking, harvesting, or possession of any of the following species, which are endangered, threatened, or of special concern:

1. Shortnose sturgeon (Acipenser brevirostrum);

2. Atlantic sturgeon (Acipenser oxyrhynchus);

3. Common snook (Centropomus undecimalis);

4. Atlantic loggerhead turtle (Caretta caretta caretta);

5. Atlantic green turtle (Chelonia mydas mydas);

6. Leatherback turtle (Dermochelys coriacea);

7. Atlantic hawksbill turtle (Eretmochelys imbricata imbracata);

8. Atlantic ridley turtle (Lepidochelys kempi); or

9. West Indian manatee (Trichechus manatus latirostris),

an additional penalty of $100 for each unit of marine life or part thereof.

(f) For a second or subsequent conviction within 24 months for any violation of the same law or rule involving the taking or harvesting of more than 100 pounds of any finfish, an additional penalty of $5 for each pound of illegal finfish.

(g) For any violation involving the taking, harvesting, or possession of more than 1,000 pounds of any illegal finfish, an

additional penalty equivalent to the wholesale value of the illegal finfish.

(h) Permits issued to any commercial harvester ~~person, firm, or corporation~~ by the commission to take or harvest saltwater products, or any license issued pursuant to s. 370.06 or s. 370.07 may be suspended or revoked by the commission, pursuant to the provisions and procedures of s. 120.60, for any major violation prescribed in this subsection:

1. Upon a first conviction, for up to 30 calendar days.

2. Upon a second conviction which occurs within 12 months after a prior violation, for up to 90 calendar days.

3. Upon a third conviction which occurs within 24 months after a prior conviction, for up to 180 calendar days.

4. Upon a fourth conviction which occurs within 36 months after a prior conviction, for a period of 6 months to 3 years.

(i) Upon the arrest and conviction for a major violation involving stone crabs, the licenseholder must show just cause why his or her license should not be suspended or revoked. For the purposes of this paragraph, a "major violation" means a major violation as prescribed for illegal stone crabs; any single violation involving possession of more than 25 stone crabs during the closed season or possession of 25 or more whole-bodied or egg-bearing stone crabs; any violation for trap molestation, trap robbing, or pulling traps at night; or any combination of violations in any 3-consecutive-year period wherein more than 75 illegal stone crabs in the aggregate are involved.

(j) Upon the arrest and conviction for a major violation involving crawfish, the licenseholder must show just cause why his or her license should not be suspended or revoked. For the purposes of this paragraph, a "major violation" means a major violation as prescribed for illegal crawfish; any single violation involving possession of more than 25 crawfish during the closed season or possession of more than 25 wrung crawfish tails or more than 25 egg-bearing or stripped crawfish; any violation for trap molestation, trap robbing, or pulling traps at night; or any combination of violations in any 3-consecutive-year period wherein more than 75 illegal crawfish in the aggregate are involved.

(k) Upon the arrest and conviction for a major violation involving blue crabs, the licenseholder shall show just cause why his or her saltwater products license should not be suspended or revoked. This paragraph shall not apply to an individual fishing with no more than five traps. For the purposes of this paragraph, a "major violation" means a major violation as prescribed for illegal blue crabs, any single violation wherein 50 or more illegal blue crabs are involved; any violation for trap molestation, trap robbing, or pulling traps at night; or any combination of violations in any 3-consecutive-year period wherein more than 100 illegal blue crabs in the aggregate are involved.

(l) Upon the conviction for a major violation involving finfish, the licenseholder must show just cause why his or her saltwater products license should not be suspended or revoked. For the purposes of this paragraph, a major violation is

prescribed for the taking and harvesting of illegal finfish, any single violation involving the possession of more than 100 pounds of illegal finfish, or any combination of violations in any 3-consecutive-year period wherein more than 200 pounds of illegal finfish in the aggregate are involved.

(m) For a violation involving the taking or harvesting of any marine life species, as those species are defined by rule of the commission, the harvest of which is prohibited, or the taking or harvesting of such a species out of season, or with an illegal gear or chemical, or any violation involving the possession of 25 or more individual specimens of marine life species, or any combination of violations in any 3-year period involving more than 70 such specimens in the aggregate, the suspension or revocation of the licenseholder's marine life endorsement as provided in paragraph (h).

The penalty provisions of this subsection apply to commercial harvesters and wholesale and retail saltwater products dealers as defined in s. 370.07. Any other person who commits a major violation under this subsection commits a Level Three violation under s. 372.83. Notwithstanding the provisions of s. 948.01, no court may suspend, defer, or withhold adjudication of guilt or imposition of sentence for any major violation prescribed in this subsection. The proceeds from the penalties assessed pursuant to this subsection shall be deposited into the Marine Resources Conservation Trust Fund to be used for marine fisheries research or into the commission's Federal Law Enforcement Trust Fund as provided in s. 372.107, as applicable.

(4) ADDITIONAL PENALTIES FOR MAJOR VIOLATIONS INVOLVING CERTAIN FINFISH.--

(a) It is a major violation pursuant to this section~~,~~ ~~punishable as provided in paragraph (3)(b),~~ for any person to be in possession of any species of trout, snook, or redfish which is three fish in excess of the recreational or commercial daily bag limit.

(b) A commercial harvester who violates this subsection shall be punished as provided in paragraph (3)(b). Any other person who violates this subsection commits a Level Three violation under s. 372.83.

(5) SALTWATER PRODUCTS; UNLICENSED SELLERS; ILLEGALLY HARVESTED PRODUCTS.--In addition to other penalties authorized in this chapter, any violation of s. 370.06 or s. 370.07, or rules of the commission implementing s. 370.06 or s. 370.07, involving the purchase of saltwater products by a commercial wholesale dealer, retail dealer, or restaurant facility for public consumption from an unlicensed person, firm, or corporation, ~~or the sale of saltwater products by an unlicensed person, firm, or corporation~~ or the purchase or sale of any saltwater product known to be taken in violation of s. 16, Art. X of the State Constitution, or rule or statute implementing the provisions thereof, by a commercial wholesale dealer, retail dealer, or restaurant facility, for public consumption, is a major violation, and the commission may assess the following penalties:

(a) For a first violation, the commission may assess a civil penalty of up to $2,500 and may suspend the wholesale or retail dealer's license privileges for up to 90 calendar days.

(b) For a second violation occurring within 12 months of a prior violation, the commission may assess a civil penalty of up to $5,000 and may suspend the wholesale or retail dealer's license privileges for up to 180 calendar days.

(c) For a third or subsequent violation occurring within a 24-month period, the commission shall assess a civil penalty of $5,000 and shall suspend the wholesale or retail dealer's license privileges for up to 24 months.

Any proceeds from the civil penalties assessed pursuant to this subsection shall be deposited into the Marine Resources Conservation Trust Fund and shall be used as follows: 40 percent for administration and processing purposes and 60 percent for law enforcement purposes.

(6) PENALTIES FOR UNLICENSED SALE, PURCHASE, OR HARVEST.--It is a major violation and punishable as provided in this subsection for any ~~an~~ unlicensed person, firm, or corporation who is required to be licensed as a commercial harvester or a wholesale or retail saltwater products dealer under this chapter to sell or purchase any saltwater product or to harvest or attempt to harvest any saltwater product with intent to sell the saltwater product.

(a) Any person, firm, or corporation who sells or purchases any saltwater product without having purchased the

licenses required by this chapter for such sale is subject to ~~additional~~ penalties as follows:

1. A first violation is a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.

2. A second violation is a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083, and such person may also be assessed a civil penalty of up to $2,500 and is subject to a suspension of all license privileges under this chapter and chapter 372 for a period not exceeding 90 days.

3. A third violation is a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083, with a mandatory minimum term of imprisonment of 6 months, and such person may also be assessed a civil penalty of up to $5,000 and is subject to a suspension of all license privileges under this chapter and chapter 372 for a period not exceeding 6 months.

4. A third violation within 1 year after a second violation is a felony of the third degree, punishable as provided in s. 775.082 or s. 775.083, with a mandatory minimum term of imprisonment of 1 year, and such person shall be assessed a civil penalty of $5,000 and all license privileges under this chapter and chapter 372 shall be permanently revoked.

5. A fourth or subsequent violation is a felony of the third degree, punishable as provided in s. 775.082 or s. 775.083, with a mandatory minimum term of imprisonment of 1 year, and such person shall be assessed a civil penalty of $5,000 and all license privileges under this chapter and chapter 372 shall be permanently revoked.

(b) Any person whose license privileges under this chapter have been permanently revoked and who thereafter sells or purchases or who attempts to sell or purchase any saltwater product commits a felony of the third degree, punishable as provided in s. 775.082 or s. 775.083, with a mandatory minimum term of imprisonment of 1 year, and such person shall also be assessed a civil penalty of $5,000. All property involved in such offense shall be forfeited pursuant to s. 370.061.

(c) Any commercial harvester or wholesale or retail saltwater products dealer ~~person~~ whose license privileges under this chapter are under suspension and who during such period of suspension sells or purchases or attempts to sell or purchase any saltwater product shall be assessed the following penalties:

1. A first violation, or a second violation occurring more than 12 months after a first violation, is a first degree misdemeanor, punishable as provided in ss. 775.082 and 775.083, and such commercial harvester or wholesale or retail saltwater products dealer ~~person~~ may be assessed a civil penalty of up to $2,500 and an additional suspension of all license privileges under this chapter and chapter 372 for a period not exceeding 90 days.

2. A second violation occurring within 12 months of a first violation is a third degree felony, punishable as provided in ss. 775.082 and 775.083, with a mandatory minimum term of imprisonment of 1 year, and such commercial harvester or wholesale or retail saltwater products dealer ~~person~~ may be assessed a civil penalty of up to $5,000 and an additional suspension of all license privileges under this chapter and

chapter 372 for a period not exceeding 180 days. All property involved in such offense shall be forfeited pursuant to s. 370.061.

3. A third violation within 24 months of the second violation or subsequent violation is a third degree felony, punishable as provided in ss. 775.082 and 775.083, with a mandatory minimum term of imprisonment of 1 year, and such commercial harvester or wholesale or retail saltwater products dealer ~~person~~ shall be assessed a mandatory civil penalty of up to $5,000 and an additional suspension of all license privileges under this chapter and chapter 372 for a period not exceeding 24 months. All property involved in such offense shall be forfeited pursuant to s. 370.061.

(d) Any commercial harvester ~~person~~ who harvests or attempts to harvest any saltwater product with intent to sell the saltwater product without having purchased a saltwater products license with the requisite endorsements is subject to penalties as follows:

1. A first violation is a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.

2. A second violation is a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083, and such commercial harvester ~~person~~ may also be assessed a civil penalty of up to $2,500 and is subject to a suspension of all license privileges under this chapter and chapter 372 for a period not exceeding 90 days.

3. A third violation is a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083, with a

mandatory minimum term of imprisonment of 6 months, and such commercial harvester ~~person~~ may also be assessed a civil penalty of up to $5,000 and is subject to a suspension of all license privileges under this chapter and chapter 372 for a period not exceeding 6 months.

4. A third violation within 1 year after a second violation is a felony of the third degree, punishable as provided in s. 775.082 or s. 775.083, with a mandatory minimum term of imprisonment of 1 year, and such commercial harvester ~~person~~ shall also be assessed a civil penalty of $5,000 and all license privileges under this chapter and chapter 372 shall be permanently revoked.

5. A fourth or subsequent violation is a felony of the third degree, punishable as provided in s. 775.082 or s. 775.083, with a mandatory minimum term of imprisonment of 1 year, and such commercial harvester ~~person~~ shall also be assessed a mandatory civil penalty of $5,000 and all license privileges under this chapter and chapter 372 shall be permanently revoked.

For purposes of this subsection, a violation means any judicial disposition other than acquittal or dismissal.

(12) LICENSES AND ENTITIES SUBJECT TO PENALTIES.--For purposes of imposing license or permit suspensions or revocations authorized by this chapter, the license or permit under which the violation was committed is subject to suspension or revocation by the commission. For purposes of assessing monetary civil or administrative penalties authorized by this

chapter, the commercial harvester ~~person, firm, or corporation~~ cited and subsequently receiving a judicial disposition of other than dismissal or acquittal in a court of law is subject to the monetary penalty assessment by the commission. However, if the license or permitholder of record is not the commercial harvester ~~person, firm, or corporation~~ receiving the citation and judicial disposition, the license or permit may be suspended or revoked only after the license or permitholder has been notified by the commission that the license or permit has been cited in a major violation and is now subject to suspension or revocation should the license or permit be cited for subsequent major violations.

Section 3. Section 370.028, Florida Statutes, is amended to read:

370.028 Enforcement of commission rules; penalties for violation of rule.--Rules of the Fish and Wildlife Conservation Commission shall be enforced by any law enforcement officer certified pursuant to s. 943.13. Except as provided under s. 372.83, any person who violates or otherwise fails to comply with any rule adopted by the commission shall be punished pursuant to s. 370.021(1).

Section 4. Paragraph (d) of subsection (5) of section 370.061, Florida Statutes, is amended to read:

370.061 Confiscation, seizure, and forfeiture of property and products.--

(5) CONFISCATION AND SALE OF PERISHABLE SALTWATER PRODUCTS; PROCEDURE.--

(d) For purposes of confiscation under this subsection, the term "saltwater products" has the meaning set out in s. 370.01(27) ~~(26)~~, except that the term does not include saltwater products harvested under the authority of a recreational license unless the amount of such harvested products exceeds three times the applicable recreational bag limit for trout, snook, or redfish.

Section 5. Subsection (8) is added to section 370.063, Florida Statutes, to read:

370.063 Special recreational crawfish license.--There is created a special recreational crawfish license, to be issued to qualified persons as provided by this section for the recreational harvest of crawfish (spiny lobster) beginning August 5, 1994.

(8) Any person who violates this section commits a Level One violation under s. 372.83.

Section 6. Subsection (8) is added to section 370.08, Florida Statutes, to read:

370.08 Fishers and equipment; regulation.--

(8) PENALTIES.--A commercial harvester who violates this section shall be punished under s. 370.021. Any other person who violates this section commits a Level Two violation under s. 372.83.

Section 7. Subsection (6) is added to section 370.081, Florida Statutes, to read:

370.081 Illegal importation or possession of nonindigenous marine plants and animals; rules and regulations.--

(6) Any person who violates this section commits a Level Three violation under s. 372.83.

Section 8. Subsection (4) is added to section 370.1105, Florida Statutes, to read:

370.1105 Saltwater finfish; fishing traps regulated.--

(4) A commercial harvester who violates this section shall be punished under s. 370.021. Any other person who violates this section commits a Level Two violation under s. 372.83.

Section 9. Subsection (3) is added to section 370.1121, Florida Statutes, to read:

370.1121 Bonefish; regulation.--

(3) A commercial harvester or wholesale or retail saltwater products dealer who violates this section shall be punished under s. 370.021. Any other person who violates this section commits a Level Two violation under s. 372.83.

Section 10. Paragraphs (a), (b), (c), and (d) of subsection (2) of section 370.13, Florida Statutes, are amended to read:

370.13 Stone crab; regulation.--

(2) PENALTIES.--For purposes of this subsection, conviction is any disposition other than acquittal or dismissal, regardless of whether the violation was adjudicated under any state or federal law.

(a) It is unlawful to violate commission rules regulating stone crab trap certificates and trap tags. No person may use an expired tag or a stone crab trap tag not issued by the commission or possess or use a stone crab trap in or on state

waters or adjacent federal waters without having a trap tag required by the commission firmly attached thereto.

1. In addition to any other penalties provided in s. 370.021, for any commercial harvester who violates this paragraph, ~~person, firm, or corporation who violates rule 68B-13.010(2), Florida Administrative Code, or rule 68B-13.011(5), (6), (7), (8), or (11), Florida Administrative Code,~~ the following administrative penalties apply.

a.~~1.~~ For a first violation, the commission shall assess an administrative penalty of up to $1,000 and the stone crab endorsement under which the violation was committed may be suspended for the remainder of the current license year.

b.~~2.~~ For a second violation that occurs within 24 months of any previous such violation, the commission shall assess an administrative penalty of up to $2,000 and the stone crab endorsement under which the violation was committed may be suspended for 12 calendar months.

c.~~3.~~ For a third violation that occurs within 36 months of any previous two such violations, the commission shall assess an administrative penalty of up to $5,000 and the stone crab endorsement under which the violation was committed may be suspended for 24 calendar months.

d.~~4.~~ A fourth violation that occurs within 48 months of any three previous such violations, shall result in permanent revocation of all of the violator's saltwater fishing privileges, including having the commission proceed against the endorsement holder's saltwater products license in accordance with s. 370.021.

2. Any other person who violates the provisions of this paragraph commits a Level Two violation under s. 372.83.

Any commercial harvester ~~person~~ assessed an administrative penalty under this paragraph shall, within 30 calendar days after notification, pay the administrative penalty to the commission, or request an administrative hearing under ss. 120.569 and 120.57. The proceeds of all administrative penalties collected under this paragraph shall be deposited in the Marine Resources Conservation Trust Fund.

(b) It is unlawful for any commercial harvester ~~person~~ to remove the contents of another harvester's trap or take possession of such without the express written consent of the trap owner available for immediate inspection. Unauthorized possession of another's trap gear or removal of trap contents constitutes theft.

1. Any commercial harvester ~~person~~ convicted of theft of or from a trap pursuant to this subsection or s. 370.1107 shall, in addition to the penalties specified in s. 370.021 and the provisions of this section, permanently lose all ~~his or her~~ saltwater fishing privileges, including saltwater products licenses, stone crab or incidental take endorsements, and all trap certificates allotted to such commercial harvester ~~him or her~~ by the commission. In such cases, trap certificates and endorsements are nontransferable.

2. In addition, any commercial harvester ~~person, firm, or corporation~~ convicted of violating the prohibitions referenced in this paragraph shall also be assessed an administrative

penalty of up to $5,000. Immediately upon receiving a citation for a violation involving theft of or from a trap and until adjudicated for such a violation, or, upon receipt of a judicial disposition other than dismissal or acquittal on such a violation, the violator is prohibited from transferring any stone crab or lobster certificates.

3. Any other person who violates the provisions of this paragraph commits a Level Two violation under s. 372.83.

(c)1. It is unlawful to violate ~~Any person, firm, or corporation convicted of violating~~ commission rules that prohibit any of the following:~~, commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.~~

a.~~1.~~ The willful molestation of any stone crab trap, line, or buoy that is the property of any licenseholder, without the permission of that licenseholder.

b.~~2.~~ The bartering, trading, or sale, or conspiring or aiding in such barter, trade, or sale, or supplying, agreeing to supply, aiding in supplying, or giving away stone crab trap tags or certificates unless the action is duly authorized by the commission as provided by commission rules.

c.~~3.~~ The making, altering, forging, counterfeiting, or reproducing of stone crab trap tags.

d.~~4.~~ Possession of forged, counterfeit, or imitation stone crab trap tags.

e.~~5.~~ Engaging in the commercial harvest of stone crabs during the time either of the endorsements is under suspension or revocation.

2. Any commercial harvester who violates this paragraph commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

3. Any other person who violates this paragraph commits a Level Four violation under s. 372.83.

In addition, any commercial harvester ~~person, firm, or corporation~~ convicted of violating this paragraph shall also be assessed an administrative penalty of up to $5,000, and the incidental take endorsement and/or the stone crab endorsement under which the violation was committed may be suspended for up to 24 calendar months. Immediately upon receiving a citation involving a violation of this paragraph and until adjudicated for such a violation, or if convicted of such a violation, the person, firm, or corporation committing the violation is prohibited from transferring any stone crab certificates or endorsements.

(d) For any commercial harvester ~~person, firm, or corporation~~ convicted of fraudulently reporting the actual value of transferred stone crab certificates, the commission may automatically suspend or permanently revoke the seller's or the purchaser's stone crab endorsements. If the endorsement is permanently revoked, the commission shall also permanently deactivate the endorsement holder's stone crab certificate accounts. Whether an endorsement is suspended or revoked, the commission may also levy a fine against the holder of the endorsement of up to twice the appropriate surcharge to be paid based on the fair market value of the transferred certificates.

Section 11. Subsection (1) of section 370.135, Florida Statutes, is amended to read:

370.135 Blue crab; regulation.--

(1)(a) No commercial harvester ~~person, firm, or corporation~~ shall transport on the water, fish with or cause to be fished with, set, or place any trap designed for taking blue crabs unless such commercial harvester ~~person, firm, or corporation~~ is the holder of a valid saltwater products license issued pursuant to s. 370.06 and the trap has a current state number permanently attached to the buoy. The trap number shall be affixed in legible figures at least 1 inch high on each buoy used. The saltwater products license must be on board the boat, and both the license and the crabs shall be subject to inspection at all times. Only one trap number may be issued for each boat by the commission upon receipt of an application on forms prescribed by it. This subsection shall not apply to an individual fishing with no more than five traps.

(b) It is unlawful ~~a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084,~~ for any person willfully to molest any traps, lines, or buoys, as defined herein, belonging to another without the express written consent of the trap owner.

1. A commercial harvester who violates this paragraph commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

2. Any other person who violates this paragraph commits a Level Four violation under s. 372.83.

Any commercial harvester ~~person~~ receiving a judicial disposition other than dismissal or acquittal on a charge of willful molestation of a trap, in addition to the penalties specified in s. 370.021, shall lose all saltwater fishing privileges for a period of 24 calendar months.

(c)1. It is unlawful for any person to remove the contents of or take possession of another harvester's trap without the express written consent of the trap owner available for immediate inspection. Unauthorized possession of another's trap gear or removal of trap contents constitutes theft.

a. Any commercial harvester ~~person~~ receiving a judicial disposition other than dismissal or acquittal on a charge of theft of or from a trap pursuant to this section or s. 370.1107 shall, in addition to the penalties specified in s. 370.021 and the provisions of this section, permanently lose all ~~his or her~~ saltwater fishing privileges, including any ~~his or her~~ saltwater products license and blue crab endorsement. In such cases endorsements, landings history, and trap certificates are nontransferable.

b. In addition, any commercial harvester ~~person, firm, or corporation~~ receiving a judicial disposition other than dismissal or acquittal for violating this subsection or s. 370.1107 shall also be assessed an administrative penalty of up to $5,000. Immediately upon receiving a citation for a violation involving theft of or from a trap and until adjudicated for such a violation, or receiving a judicial disposition other than dismissal or acquittal for such a violation, the commercial harvester ~~person, firm, or corporation~~ committing the violation

is prohibited from transferring any blue crab endorsements, landings history, or trap certificates.

2. A commercial harvester who violates this paragraph shall be punished under s. 370.021. Any other person who violates this paragraph commits a Level Two violation under s. 372.83.

Section 12. Paragraph (a) of subsection (2) and subsection (4) of section 370.14, Florida Statutes, are amended to read:

370.14 Crawfish; regulation.--

(2)(a)1. Each commercial harvester ~~person~~ taking or attempting to take crawfish with a trap in commercial quantities or for commercial purposes shall obtain and exhibit a crawfish trap number, as required by the Fish and Wildlife Conservation Commission. The annual fee for a crawfish trap number is $125. This trap number may be issued by the commission upon the receipt of application by the commercial harvester ~~person~~ when accompanied by the payment of the fee. The design of the applications and of the trap number shall be determined by the commission. Any trap or device used in taking or attempting to take crawfish, other than a trap with the trap number, shall be seized and destroyed by the commission. The proceeds of the fees imposed by this paragraph shall be deposited and used as provided in paragraph (b). The commission may adopt rules to carry out the intent of this section.

2. Each commercial harvester ~~person~~ taking or attempting to take crawfish in commercial quantities or for commercial purposes by any method, other than with a trap having a crawfish

trap number issued by the commission, must pay an annual fee of $100.

(4)(a) It is unlawful ~~a felony of the third degree, punishable as provided in s. 775.082 or s. 775.083,~~ for any person willfully to molest any crawfish traps, lines, or buoys belonging to another without permission of the licenseholder.

(b) A commercial harvester who violates this subsection commits a felony of the third degree, punishable as provided in s. 775.082 or s. 775.083. Any other person who violates this subsection commits a Level Four violation under s. 372.83.

Section 13. Paragraph (c) of subsection (2) of section 370.142, Florida Statutes, is amended to read:

370.142 Spiny lobster trap certificate program.--

(2) TRANSFERABLE TRAP CERTIFICATES; TRAP TAGS; FEES; PENALTIES.--The Fish and Wildlife Conservation Commission shall establish a trap certificate program for the spiny lobster fishery of this state and shall be responsible for its administration and enforcement as follows:

(c) Prohibitions; penalties.--

1. It is unlawful for a person to possess or use a spiny lobster trap in or on state waters or adjacent federal waters without having affixed thereto the trap tag required by this section. It is unlawful for a person to possess or use any other gear or device designed to attract and enclose or otherwise aid in the taking of spiny lobster by trapping that is not a trap as defined by rule of the commission ~~in rule 68B-24.006(2), Florida Administrative Code~~.

2. It is unlawful for a person to possess or use spiny lobster trap tags without having the necessary number of certificates on record as required by this section.

3. It is unlawful for any person to willfully molest, take possession of, or remove the contents of another harvester's trap without the express written consent of the trap owner available for immediate inspection. Unauthorized possession of another's trap gear or removal of trap contents constitutes theft.

a. A commercial harvester who violates this subparagraph shall be punished under ss. 370.021 and 370.14. Any commercial harvester ~~person~~ receiving a judicial disposition other than dismissal or acquittal on a charge of theft of or from a trap pursuant to this subparagraph or s. 370.1107 shall, in addition to the penalties specified in ss. 370.021 and 370.14 and the provisions of this section, permanently lose all his or her saltwater fishing privileges, including his or her saltwater products license, crawfish endorsement, and all trap certificates allotted to him or her through this program. In such cases, trap certificates and endorsements are nontransferable.

b. Any commercial harvester ~~person~~ receiving a judicial disposition other than dismissal or acquittal on a charge of willful molestation of a trap, in addition to the penalties specified in ss. 370.021 and 370.14, shall lose all saltwater fishing privileges for a period of 24 calendar months.

c. In addition, any commercial harvester ~~person, firm, or corporation~~ charged with violating this paragraph and receiving

a judicial disposition other than dismissal or acquittal for violating this subparagraph or s. 370.1107 shall also be assessed an administrative penalty of up to $5,000.

Immediately upon receiving a citation for a violation involving theft of or from a trap, or molestation of a trap, and until adjudicated for such a violation or, upon receipt of a judicial disposition other than dismissal or acquittal of such a violation, the person, firm, or corporation committing the violation is prohibited from transferring any crawfish trap certificates and endorsements.

4. In addition to any other penalties provided in s. 370.021, a commercial harvester~~, as defined by rule 68B-24.002(1), Florida Administrative Code,~~ who violates the provisions of this section~~,~~ or commission rules ~~the provisions~~ relating to traps ~~of chapter 68B-24, Florida Administrative Code,~~ shall be punished as follows:

a. If the first violation is for violation of subparagraph 1. or subparagraph 2., the commission shall assess an additional administrative ~~civil~~ penalty of up to $1,000 and the crawfish trap number issued pursuant to s. 370.14(2) or (6) may be suspended for the remainder of the current license year. For all other first violations, the commission shall assess an additional administrative ~~civil~~ penalty of up to $500.

b. For a second violation of subparagraph 1. or subparagraph 2. which occurs within 24 months of any previous such violation, the commission shall assess an additional administrative ~~civil~~ penalty of up to $2,000 and the crawfish

trap number issued pursuant to s. 370.14(2) or (6) may be suspended for the remainder of the current license year.

c. For a third or subsequent violation of subparagraph 1., subparagraph 2., or subparagraph 3. which occurs within 36 months of any previous two such violations, the commission shall assess an additional administrative ~~civil~~ penalty of up to $5,000 and may suspend the crawfish trap number issued pursuant to s. 370.14(2) or (6) for a period of up to 24 months or may revoke the crawfish trap number and, if revoking the crawfish trap number, may also proceed against the licenseholder's saltwater products license in accordance with the provisions of s. 370.021(2)(h).

d. Any person assessed an additional administrative ~~civil~~ penalty pursuant to this section shall within 30 calendar days after notification:

(I) Pay the administrative ~~civil~~ penalty to the commission; or

(II) Request an administrative hearing pursuant to the provisions of s. 120.60.

e. The commission shall suspend the crawfish trap number issued pursuant to s. 370.14(2) or (6) for any person failing to comply with the provisions of sub-subparagraph d.

5.a. It is unlawful for any person to make, alter, forge, counterfeit, or reproduce a spiny lobster trap tag or certificate.

b. It is unlawful for any person to knowingly have in his or her possession a forged, counterfeit, or imitation spiny lobster trap tag or certificate.

c. It is unlawful for any person to barter, trade, sell, supply, agree to supply, aid in supplying, or give away a spiny lobster trap tag or certificate or to conspire to barter, trade, sell, supply, aid in supplying, or give away a spiny lobster trap tag or certificate unless such action is duly authorized by the commission as provided in this chapter or in the rules of the commission.

6.a. Any commercial harvester ~~person~~ who violates the provisions of subparagraph 5., or any commercial harvester ~~person~~ who engages in the commercial harvest, trapping, or possession of spiny lobster without a crawfish trap number as required by s. 370.14(2) or (6) or during any period while such crawfish trap number is under suspension or revocation, commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

b. In addition to any penalty imposed pursuant to sub-subparagraph a., the commission shall levy a fine of up to twice the amount of the appropriate surcharge to be paid on the fair market value of the transferred certificates, as provided in subparagraph (a)1., on any commercial harvester ~~person~~ who violates the provisions of sub-subparagraph 5.c.

c. Any other person who violates the provisions of subparagraph 5. commits a Level Four violation under s. 372.83.

7. Any certificates for which the annual certificate fee is not paid for a period of 3 years shall be considered abandoned and shall revert to the commission. During any period of trap reduction, any certificates reverting to the commission shall become permanently unavailable and be considered in that

amount to be reduced during the next license-year period. Otherwise, any certificates that revert to the commission are to be reallotted in such manner as provided by the commission.

8. The proceeds of all civil penalties collected pursuant to subparagraph 4. and all fines collected pursuant to sub-subparagraph 6.b. shall be deposited into the Marine Resources Conservation Trust Fund.

9. All traps shall be removed from the water during any period of suspension or revocation.

10. Except as otherwise provided, any person who violates this paragraph commits a Level Two violation under s. 372.83.

Section 14. Subsections (4), (8), (11), and (12) of section 372.57, Florida Statutes, are amended, and subsections (16) and (17) are added to that section, to read:

372.57 Recreational licenses, permits, and authorization numbers; fees established.--

(4) RESIDENT HUNTING AND FISHING LICENSES.--The licenses and fees for residents participating in hunting and fishing activities in this state are as follows:

(a) Annual freshwater fishing license, $12.

(b) Annual saltwater fishing license, $12.

(c) Annual hunting license to take game, $11.

(d) Annual combination hunting and freshwater fishing license, $22.

(e) Annual combination freshwater fishing and saltwater fishing license, $24.

(f) Annual combination hunting, freshwater fishing, and saltwater fishing license, $34.

(g) Annual license to take fur-bearing animals, $25. However, a resident with a valid hunting license or a no-cost license who is taking fur-bearing animals for noncommercial purposes using guns or dogs only, and not traps or other devices, is not required to purchase this license. Also, a resident 65 years of age or older is not required to purchase this license.

(h) Annual sportsman's license, $71 ~~$66~~, except that an annual sportsman's license for a resident 64 years of age or older is $12. A sportsman's license authorizes the person to whom it is issued to take game and freshwater fish, subject to the state and federal laws, rules, and regulations, including rules of the commission, in effect at the time of the taking. Other authorized activities include activities authorized by a management area permit, a muzzle-loading gun season permit, a crossbow season permit, a turkey permit, a Florida waterfowl permit, and an archery season permit.

(i) Annual gold sportsman's license, $87 ~~$82~~. The gold sportsman's license authorizes the person to whom it is issued to take freshwater fish, saltwater fish, and game, subject to the state and federal laws, rules, and regulations, including rules of the commission, in effect at the time of taking. Other authorized activities include activities authorized by a management area permit, a muzzle-loading gun season permit, a crossbow season permit, a turkey permit, a Florida waterfowl permit, an archery season permit, a snook permit, and a crawfish permit.

(j) Annual military gold sportsman's license, $18.50. The gold sportsman's license authorizes the person to whom it is issued to take freshwater fish, saltwater fish, and game, subject to the state and federal laws, rules, and regulations, including rules of the commission, in effect at the time of taking. Other authorized activities include activities authorized by a management area permit, a muzzle-loading gun season permit, a crossbow season permit, a turkey permit, a Florida waterfowl permit, an archery season permit, a snook permit, and a crawfish permit. Any resident who is an active or retired member of the United States Armed Forces, the United States Armed Forces Reserve, the National Guard, the United States Coast Guard, or the United States Coast Guard Reserve is eligible to purchase the military gold sportsman's license upon submission of a current military identification card.

(8) SPECIFIED HUNTING, FISHING, AND RECREATIONAL ACTIVITY PERMITS.--In addition to any license required under this chapter, the following permits and fees for specified hunting, fishing, and recreational uses and activities are required:

(a) An annual Florida waterfowl permit for a resident or nonresident to take wild ducks or geese within the state or its coastal waters is $3.

(b)1. An annual Florida turkey permit for a resident to take wild turkeys within the state is $5.

2. An annual Florida turkey permit for a nonresident to take wild turkeys within the state is $100.

(c) An annual snook permit for a resident or nonresident to take or possess any snook from any waters of the state is $2.

Revenue generated from the sale of snook permits shall be used exclusively for programs to benefit the snook population.

(d) An annual crawfish permit for a resident or nonresident to take or possess any crawfish for recreational purposes from any waters of the state is $2. Revenue generated from the sale of crawfish permits shall be used exclusively for programs to benefit the crawfish population.

(e) A $5 fee is imposed for each of the following permits:

1. An annual archery season permit for a resident or nonresident to hunt within the state during any archery season authorized by the commission.

2. An annual crossbow season permit for a resident or nonresident to hunt within the state during any crossbow season authorized by the commission.

3. An annual muzzle-loading gun season permit for a resident or nonresident to hunt within the state during any ~~with a~~ muzzle-loading gun season ~~is $5. Hunting with a muzzle-loading gun is limited to game seasons in which hunting with a modern firearm is not~~ authorized by the commission.

~~(f) An annual archery permit for a resident or nonresident to hunt within the state with a bow and arrow is $5. Hunting with an archery permit is limited to those game seasons in which hunting with a firearm is not authorized by the commission.~~

(f) ~~(g)~~ A special use permit for a resident or nonresident to participate in limited entry hunting or fishing activities as authorized by commission rule shall not exceed $100 per day or $250 per week. Notwithstanding any other provision of this chapter, there are no exclusions, exceptions, or exemptions from

this permit fee. In addition to the permit fee, the commission may charge each special use permit applicant a nonrefundable application fee not to exceed $10.

(g) ~~(h)~~ 1. A management area permit for a resident or nonresident to hunt on, fish on, or otherwise use for outdoor recreational purposes land owned, leased, or managed by the commission, or by the state for the use and benefit of the commission, shall not exceed $25 per year.

2. Permit fees for short-term use of land that is owned, leased, or managed by the commission may be established by rule of the commission for activities on such lands. Such permits may be in lieu of, or in addition to, the annual management area permit authorized in subparagraph 1.

3. Other than for hunting or fishing, the provisions of this paragraph shall not apply on any lands not owned by the commission, unless the commission has obtained the written consent of the owner or primary custodian of such lands.

(h) ~~(i)~~ 1. A recreational user permit is required to hunt on, fish on, or otherwise use for outdoor recreational purposes land leased by the commission from private nongovernmental owners, except for those lands located directly north of the Apalachicola National Forest, east of the Ochlocknee River until the point the river meets the dam forming Lake Talquin, and south of the closest federal highway. The fee for a recreational user permit shall be based upon the economic compensation desired by the landowner, game population levels, desired hunter density, and administrative costs. The permit fee shall be set by commission rule on a per-acre basis. The recreational user

permit fee, less administrative costs of up to $25 per permit, shall be remitted to the landowner as provided in the lease agreement for each area.

2. One minor dependent, 16 years of age or younger, may hunt under the supervision of the permittee and is exempt from the recreational user permit requirements. The spouse and dependent children of a permittee are exempt from the recreational user permit requirements when engaged in outdoor recreational activities other than hunting and when accompanied by a permittee. Notwithstanding any other provision of this chapter, no other exclusions, exceptions, or exemptions from the recreational user permit fee are authorized.

(11) RESIDENT LIFETIME HUNTING LICENSES.--

(a) Lifetime hunting licenses are available to residents only, as follows, for:

1. Persons 4 years of age or younger, for a fee of $200.

2. Persons 5 years of age or older, but under 13 years of age, for a fee of $350.

3. Persons 13 years of age or older, for a fee of $500.

(b) The following activities are authorized by the purchase of a lifetime hunting license:

1. Taking, or attempting to take or possess, game consistent with the state and federal laws and regulations and rules of the commission in effect at the time of the taking.

2. All activities authorized by a muzzle-loading gun season permit, a crossbow season permit, a turkey permit, an archery season permit, a Florida waterfowl permit, and a management area permit, excluding fishing.

(12) RESIDENT LIFETIME SPORTSMAN'S LICENSES.--

(a) Lifetime sportsman's licenses are available to residents only, as follows, for:

1. Persons 4 years of age or younger, for a fee of $400.

2. Persons 5 years of age or older, but under 13 years of age, for a fee of $700.

3. Persons 13 years of age or older, for a fee of $1,000.

(b) The following activities are authorized by the purchase of a lifetime sportsman's license:

1. Taking, or attempting to take or possess, freshwater and saltwater fish, and game, consistent with the state and federal laws and regulations and rules of the commission in effect at the time of taking.

2. All activities authorized by a management area permit, a muzzle-loading gun season permit, a crossbow season permit, a turkey permit, an archery season permit, a Florida waterfowl permit, a snook permit, and a crawfish permit.

(16) PROHIBITED LICENSES OR PERMITS.--A person may not make, forge, or counterfeit a license or permit required under this section, except for those persons authorized by the commission to make or reproduce such a license or permit. A person may not knowingly possess a forgery, counterfeit, or unauthorized reproduction of such a license or permit. A person who violates this subsection commits a Level Four violation under s. 372.83.

(17) SUSPENDED OR REVOKED LICENSES.--A person may not take game, freshwater fish, saltwater fish, or fur-bearing animals within this state if a license issued to such person as required

under this section or a privilege granted to such person under s. 372.562 is suspended or revoked. A person who violates this subsection commits a Level Three violation under s. 372.83.

Section 15. Subsection (5) of section 372.5704, Florida Statutes, is amended to read:

372.5704 Fish and Wildlife Conservation Commission license program for tarpon; fees; penalties.--

(5) Any individual including a taxidermist who possesses a tarpon which does not have a tag securely attached as required by this section commits a Level Two violation under s. 372.83 ~~shall be subject to penalties as prescribed in s. 370.021~~. Provided, however, a taxidermist may remove the tag during the process of mounting a tarpon. The removed tag shall remain with the fish during any subsequent storage or shipment.

Section 16. Section 372.571, Florida Statutes, is amended to read:

372.571 Expiration of licenses and permits.--Each license or permit issued under this chapter must be dated when issued. Each license or permit issued under this chapter remains valid for 12 months after the date of issuance, except for a lifetime license issued pursuant to s. 372.57 which is valid from the date of issuance until the death of the individual to whom the license is issued unless otherwise revoked in accordance with s. 372.99, or a 5-year license issued pursuant to s. 372.57 which is valid for 5 consecutive years from the date of purchase unless otherwise revoked in accordance with s. 372.99, or a license issued pursuant to s. 372.57(5)(a), (b), (c), or (f) or (8)(f) ~~(8)(g)~~ or (g)2.~~(h)2.~~, which is valid for the period

specified on the license. A resident lifetime license or a resident 5-year license that has been purchased by a resident of this state and who subsequently resides in another state shall be honored for activities authorized by that license.

Section 17. Section 372.5717, Florida Statutes, is amended to read:

372.5717 Hunter safety course; requirements; penalty.--

(1) This section may be cited as the Senator Joe Carlucci Hunter Safety Act.

(2)(a) Except as provided in paragraph (b), a person born on or after June 1, 1975, may not be issued a license to take wild animal life with the use of a firearm, gun, bow, or crossbow in this state without having first successfully completed a hunter safety course as provided in this section, and without having in his or her personal possession a hunter safety certification card, as provided in this section.

(b) A person born on or after June 1, 1975, who has not successfully completed a hunter safety course may apply to the commission for a special authorization to hunt under supervision. The special authorization for supervised hunting shall be designated on any license or permit required under this chapter for a person to take game or fur-bearing animals and shall be valid for not more than 1 year. A special authorization for supervised hunting may not be issued more than once to the person applying for such authorization. A person issued a license with a special authorization to hunt under supervision must hunt under the supervision of, and in the presence of, a person 21 years of age or older who is licensed to hunt under s.

372.57 or who is exempt from licensing requirements or eligible for a free license under s. 372.562.

(3) The Fish and Wildlife Conservation Commission shall institute and coordinate a statewide hunter safety course that ~~which~~ must be offered in every county and consist of not ~~less than 12 hours nor~~ more than 16 hours of instruction including, but not limited to, instruction in the competent and safe handling of firearms, conservation, and hunting ethics.

(4) The commission shall issue a permanent hunter safety certification card to each person who successfully completes the hunter safety course. The commission shall maintain records of hunter safety certification cards issued and shall establish procedures for replacing lost or destroyed cards.

(5) A hunter safety certification card issued by a wildlife agency of another state, or any Canadian province, which shows that the holder of the card has successfully completed a hunter safety course approved by the commission is an acceptable substitute for the hunter safety certification card issued by the commission.

(6) All persons subject to the requirements of subsection (2) must have in their personal possession, proof of compliance with this section, while taking or attempting to take wildlife with the use of a firearm, gun, bow, or crossbow and must, unless the requirement to complete a hunter safety course is deferred under this section, display a valid hunter safety certification card ~~to county tax collectors or their subagents~~ in order to purchase a Florida hunting license. After the issuance of such a license, the license itself shall serve as

proof of compliance with this section. A holder of a lifetime license whose license does not indicate on the face of the license that a hunter safety course has been completed must have in his or her personal possession a hunter safety certification card, as provided by this section, while attempting to take wild animal life with the use of a firearm, gun, bow, or crossbow.

(7) The hunter safety requirements of this section do not apply to persons for whom licenses are not required under s. 372.562(2).

(8) A person who violates this section shall be cited for a Level One violation under s. 372.83 and shall be punished ~~noncriminal infraction, punishable~~ as provided in s. 372.83 ~~s. 372.711~~.

Section 18. Section 372.573, Florida Statutes, is amended to read:

372.573 Management area permit revenues.--The commission shall expend the revenue generated from the sale of the management area permit as provided for in s. 372.57(8)(g) ~~s. 372.57(8)(h)~~ or that pro rata portion of any license that includes management area privileges as provided for in s. 372.57(4)(h), (i), and (j) for the lease, management, and protection of lands for public hunting, fishing, and other outdoor recreation.

Section 19. Section 372.83, Florida Statutes, is amended to read:

(Substantial rewording of section. See s. 372.83, F.S., for present text.)

372.83 Penalties and violations; civil penalties for noncriminal infractions; criminal penalties; suspension and forfeiture of licenses and permits.--

(1)(a) LEVEL ONE VIOLATIONS.--A person commits a Level One violation if he or she violates any of the following provisions:

1. Rules or orders of the commission relating to the filing of reports or other documents required to be filed by persons who hold recreational licenses and permits issued by the commission.

2. Rules or orders of the commission relating to quota hunt permits, daily use permits, hunting zone assignments, camping, alcoholic beverages, vehicles, and check stations within wildlife management areas or other areas managed by the commission.

3. Rules or orders of the commission relating to daily use permits, alcoholic beverages, swimming, possession of firearms, operation of vehicles, and watercraft speed within fish management areas managed by the commission.

4. Rules or orders of the commission relating to vessel size or specifying motor restrictions on specified water bodies.

5. Section 370.063, providing for special recreational crawfish licenses.

6. Subsections (1) through (15) of s. 372.57, providing for recreational licenses to hunt, fish, and trap.

7. Section 372.5717, providing hunter safety course requirements.

8. Section 372.988, prohibiting deer hunting unless required clothing is worn.

(b) A person who commits a Level One violation commits a noncriminal infraction and shall be cited to appear before the county court.

(c)1. The civil penalty for committing a Level One violation involving the license and permit requirements of s. 372.57 is $50, plus the cost of the license or permit if the person cited has not previously committed a Level One violation.

2. The civil penalty for committing a Level One violation involving the license and permit requirements of s. 372.57 is $250, plus the cost of the license or permit if the person cited has previously committed a Level One violation.

(d)1. The civil penalty for any other Level One violation is $50 if the person cited has not previously committed a Level One violation.

2. The civil penalty for any other Level One violation is $250 if the person cited has previously committed a Level One violation.

(e) A person cited for a Level One violation shall sign and accept a citation to appear before the county court. The issuing officer may indicate on the citation the time and location of the scheduled hearing and shall indicate the applicable civil penalty.

(f) A person cited for a Level One violation may pay the civil penalty by mail or in person within 30 days after receipt of the citation. If the civil penalty is paid, the person shall be deemed to have admitted committing the Level One violation and to have waived his or her right to a hearing before the county court. Such admission may not be used as evidence in any

other proceedings except to determine the appropriate fine for any subsequent violations.

(g) A person who refuses to accept a citation, who fails to pay the civil penalty for a Level One violation, or who fails to appear before a county court as required commits a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.

(h) A person who elects to appear before the county court or who is required to appear before the county court shall be deemed to have waived the limitations on civil penalties provided under paragraph (c). After a hearing, the county court shall determine if a Level One violation has been committed and, if so, may impose a civil penalty of not less than $50 for a first-time violation and not more than $500 for subsequent violations. A person found guilty of committing a Level One violation may appeal that finding to the circuit court. The commission of a violation must be proved beyond a reasonable doubt.

(i) A person cited for violating the requirements of s. 372.57 relating to personal possession of a license or permit may not be convicted if, prior to or at the time of a county court hearing, the person produces the required license or permit for verification by the hearing officer or the court clerk. The license or permit must have been valid at the time the person was cited. The clerk or hearing officer may assess a $5 fee for costs under this paragraph.

(2)(a) LEVEL TWO VIOLATIONS.--A person commits a Level Two violation if he or she violates any of the following provisions:

1. Rules or orders of the commission relating to season or time periods for the taking of wildlife, freshwater fish, or saltwater fish.

2. Rules or orders of the commission establishing bag, possession, or size limits or restricting methods of taking wildlife, freshwater fish, or saltwater fish.

3. Rules or orders of the commission prohibiting access or otherwise relating to access to wildlife management areas or other areas managed by the commission.

4. Rules or orders of the commission relating to the feeding of wildlife, freshwater fish, or saltwater fish.

5. Rules or orders of the commission relating to landing requirements for freshwater fish or saltwater fish.

6. Rules or orders of the commission relating to restricted hunting areas, critical wildlife areas, or bird sanctuaries.

7. Rules or orders of the commission relating to tagging requirements for game and fur-bearing animals.

8. Rules or orders of the commission relating to the use of dogs for the taking of game.

9. Rules or orders of the commission which are not otherwise classified.

10. All prohibitions in chapter 370 which are not otherwise classified.

11. Subsection 370.021(6), prohibiting the sale, purchase, harvest, or attempted harvest of any saltwater product with intent to sell.

12. Section 370.028, prohibiting the violation of or noncompliance with commission rules.

13. Section 370.08, prohibiting the obstruction of waterways with net gear.

14. Section 370.1105, prohibiting the unlawful use of finfish traps.

15. Section 370.1121, prohibiting the unlawful taking of bonefish.

16. Paragraphs 370.13(2)(a) and (b), prohibiting the possession or use of stone crab traps without trap tags and theft of trap contents or gear.

17. Paragraph 370.135(1)(c), prohibiting the theft of blue crab trap contents or trap gear.

18. Paragraph 370.142(2)(c), prohibiting the possession or use of spiny lobster traps without trap tags or certificates and theft of trap contents or trap gear.

19. Section 372.5704, prohibiting the possession of tarpon without purchasing a tarpon tag.

20. Section 372.667, prohibiting the feeding or enticement of alligators or crocodiles.

21. Section 372.705, prohibiting the intentional harassment of hunters, fishers, or trappers.

(b)1. A person who commits a Level Two violation but who has not been convicted of a Level Two or higher violation within the past 3 years commits a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.

2. Unless the stricter penalties in subparagraph 3. or subparagraph 4. apply, a person who commits a Level Two

violation within 3 years after a previous conviction for a Level Two or higher violation commits a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083, with a minimum mandatory fine of $250.

3. Unless the stricter penalties in subparagraph 4. apply, a person who commits a Level Two violation within 5 years after two previous convictions for a Level Two or higher violation commits a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083, with a minimum mandatory fine of $500 and a suspension of any recreational license or permit issued under s. 372.57 for 1 year. Such suspension shall include the suspension of the privilege to obtain such license or permit and the suspension of the ability to exercise any privilege granted under any exemption in s. 372.562.

4. A person who commits a Level Two violation within 10 years after three previous convictions for a Level Two or higher violation commits a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083, with a minimum mandatory fine of $750 and a suspension of any recreational license or permit issued under s. 372.57 for 3 years. Such suspension shall include the suspension of the privilege to obtain such license or permit and the suspension of the ability to exercise any privilege granted under any exemption in s. 372.562.

(3)(a) LEVEL THREE VIOLATIONS.--A person commits a Level Three violation if he or she violates any of the following provisions:

1. Rules or orders of the commission prohibiting the sale of saltwater fish.

2. Subsection 370.021(2), establishing major violations.

3. Subsection 370.021(4), prohibiting the possession of certain finfish in excess of recreational or commercial daily bag limits.

4. Section 370.081, prohibiting the illegal importation or possession of exotic marine plants or animals.

5. Section 372.26, prohibiting the importation of freshwater fish.

6. Section 372.265, prohibiting the importation of nonindigenous species of the animal kingdom without a permit issued by the commission.

7. Subsection 372.57(17), prohibiting the taking of game, freshwater fish, saltwater fish, or fur-bearing animals while a required license is suspended or revoked.

8. Section 372.662, prohibiting the illegal sale or possession of alligators.

9. Subsections 372.99(1), (3), and (6), prohibiting the illegal taking and possession of deer and wild turkey.

10. Section 372.9903, prohibiting the possession and transportation of commercial quantities of freshwater game fish.

(b)1. A person who commits a Level Three violation but who has not been convicted of a Level Three or higher violation within the past 10 years commits a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

2. A person who commits a Level Three violation within 10 years after a previous conviction for a Level Three or higher

violation commits a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083, with a minimum mandatory fine of $750 and a suspension of any recreational license or permit issued under s. 372.57 for the remainder of the period for which the license or permit was issued up to 3 years. If the recreational license or permit being suspended was an annual license or permit, any privileges under s. 372.57 may not be acquired for a 3-year period following the date of the violation.

3. A person who commits a violation of s. 372.57(17) shall receive a mandatory fine of $1,000. Any privileges under s. 372.57 may not be acquired for a 5-year period following the date of the violation.

(4)(a) LEVEL FOUR VIOLATIONS.--A person commits a Level Four violation if he or she violates any of the following provisions:

1. Paragraph 370.13(2)(c), prohibiting the willful molestation of stone crab gear; the illegal trade, sale, or supply of stone crab trap tags or certificates; the unlawful reproduction or possession of stone crab trap tags or certificates; or the unlawful harvest of stone crabs.

2. Section 370.135, prohibiting the willful molestation of blue crab gear.

3. Subsection 370.14(4), prohibiting the willful molestation of crawfish gear.

4. Subparagraph 370.142(2)(c)5., prohibiting the unlawful reproduction of spiny lobster trap tags or certificates.

5. Subsection 372.57(16), prohibiting the making, forging, counterfeiting, or reproduction of a recreational license or possession of same without authorization from the commission.

6. Subsection 372.99(5), prohibiting the sale of illegally taken deer or wild turkey.

7. Section 372.99022, prohibiting the molestation or theft of freshwater fishing gear.

(b) A person who commits a Level Four violation commits a felony of the third degree, punishable as provided in s. 775.082 or s. 775.083.

(5) VIOLATIONS OF CHAPTER.--Except as provided in this chapter:

(a) A person who commits a violation of any provision of this chapter commits, for the first offense, a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.

(b) A person who is convicted of a second or subsequent violation of any provision of this chapter commits a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

(6) SUSPENSION OR FORFEITURE OF LICENSE.--The court may order the suspension or forfeiture of any license or permit issued under this chapter to a person who is found guilty of committing a violation of this chapter.

(7) CONVICTION DEFINED.--As used in this section, the term "conviction" means any judicial disposition other than acquittal or dismissal.

Section 20. Section 372.935, Florida Statutes, is created to read:

372.935 Captive wildlife penalties.--

(1) LEVEL ONE.--Unless otherwise provided by law, the following classifications and penalties apply:

(a) A person commits a Level One violation if she or he violates any of the following provisions:

1. Rules or orders of the commission requiring free permits or other authorizations to possess captive wildlife.

2. Rules or orders of the commission relating to the filing of reports or other documents required of persons who are licensed to possess captive wildlife.

3. Rules or orders of the commission requiring permits to possess captive wildlife that a fee is charged for, when the person being charged was issued the permit and the permit has expired less than 1 year prior to the violation.

(b) Any person cited for committing any offense classified as a Level One violation commits a noncriminal infraction, punishable as provided in this section.

(c) Any person cited for committing a noncriminal infraction specified in paragraph (a) shall be cited to appear before the county court. The civil penalty for any noncriminal infraction is $50 if the person cited has not previously been found guilty of a Level One violation and $250 if the person cited has previously been found guilty of a Level One violation, except as otherwise provided in this subsection. Any person cited for failing to have a required permit or license shall pay

an additional civil penalty in the amount of the license fee required.

(d) Any person cited for an infraction under this subsection may:

1. Post a bond, which shall be equal in amount to the applicable civil penalty; or

2. Sign and accept a citation indicating a promise to appear before the county court. The officer may indicate on the citation the time and location of the scheduled hearing and shall indicate the applicable civil penalty.

(e) Any person charged with a noncriminal infraction under this subsection may:

1. Pay the civil penalty, either by mail or in person, within 30 days after the date of receiving the citation; or

2. If the person has posted bond, forfeit bond by not appearing at the designated time and location.

(f) If the person cited follows either of the procedures in subparagraph (e)1. or subparagraph (e)2., he or she shall be deemed to have admitted the infraction and to have waived his or her right to a hearing on the issue of commission of the infraction. Such admission shall not be used as evidence in any other proceedings except to determine the appropriate fine for any subsequent violations.

(g) Any person who willfully refuses to post bond or accept and sign a summons is guilty of a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083. Any person who fails to pay the civil penalty specified in this subsection within 30 days after being cited for a

noncriminal infraction or to appear before the court pursuant to this subsection is guilty of a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.

(h) Any person electing to appear before the county court or who is required to appear shall be deemed to have waived the limitations on the civil penalty specified in paragraph (c). The court, after a hearing, shall make a determination as to whether an infraction has been committed. If the commission of an infraction has been proven, the court may impose a civil penalty not less than those amounts in paragraph (c) and not to exceed $500.

(i) At a hearing under this chapter, the commission of a charged infraction must be proved beyond a reasonable doubt.

(j) If a person is found by the hearing official to have committed an infraction, she or he may appeal that finding to the circuit court.

(2) LEVEL TWO.--Unless otherwise provided by law, the following classifications and penalties apply:

(a) A person commits a Level Two violation if he or she violates any of the following provisions:

1. Unless otherwise stated in subsection (1), rules or orders of the commission that require a person to pay a fee to obtain a permit to possess captive wildlife or that require the maintenance of records relating to captive wildlife.

2. Rules or orders of the commission relating to captive wildlife not specified in subsections (1) or (3).

3. Rules or orders of the commission that require housing of wildlife in a safe manner when a violation results in an escape of wildlife other than Class I wildlife.

4. Section 372.86, relating to possessing or exhibiting reptiles.

5. Section 372.87, relating to licensing of reptiles.

6. Section 372.88, relating to bonding requirements for exhibits.

7. Section 372.89, relating to housing requirements.

8. Section 372.90, relating to transportation.

9. Section 372.901, relating to inspection.

10. Section 372.91, relating to limitation of access to reptiles.

11. Section 372.921, relating to exhibition or sale of wildlife.

12. Section 372.922, relating to personal possession of wildlife.

(b) A person who commits any offense classified as a Level Two violation, who has not been convicted of a violation that is classified as a Level Two or above within the past 3 years, is guilty of a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.

(c) Unless otherwise stated in this paragraph, a person who commits any offense classified as a Level Two violation within a 3-year period of any previous conviction of any offense classified as a Level Two violation or higher is guilty of a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083 with a minimum mandatory fine of $250.

(d) Unless otherwise stated in this paragraph, a person who commits any offense classified as a Level Two violation within a 5-year period of any two previous convictions of offenses that are classified as Level Two violations or above is guilty of a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083 with a minimum mandatory fine of $500 and a suspension of all licenses issued under this chapter related to captive wildlife for 1 year.

(e) A person who commits any offense classified as a Level Two violation within a 10-year period of any three previous convictions of offenses classified as Level Two violations or above is guilty of a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083 with a minimum mandatory fine of $750 and a suspension of all licenses issued under this chapter related to captive wildlife for 3 years.

(3) LEVEL THREE.--Unless otherwise provided by law, the following classifications and penalties apply.

(a) A person is guilty of a Level Three violation if he or she violates any of the following provisions:

1. Rules or orders of the commission that require housing of wildlife in a safe manner when a violation results in an escape of Class I wildlife.

2. Rules or orders of the commission related to captive wildlife when the violation results in serious bodily injury to another person by captive wildlife which consists of a physical condition that creates a substantial risk of death, serious personal disfigurement, or protracted loss or impairment of the function of any bodily member or organ.

3. Rules or orders of the commission relating to the use of gasoline or other chemical or gaseous substances on wildlife.

4. Rules or orders of the commission prohibiting the release of wildlife for which only conditional possession is allowed.

5. Rules or orders of the commission prohibiting knowingly entering false information on an application for a license or permit when the license or permit is to possess wildlife in captivity.

6. Section 372.265, relating to illegal importation or introduction of foreign wildlife.

(b)1. A person who commits any offense classified as a Level Three violation, who has not been convicted of a violation that is classified as a Level Three or above within the past 10 years, is guilty of a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

2. A person who commits any offense classified as a Level Three violation within a 10-year period of any previous conviction of any offense classified as a Level Three violation or above is guilty of a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083 with a minimum mandatory fine of $750 and a suspension of all licenses issued under this chapter relating to captive wildlife for 3 years.

(4) LEVEL FOUR.--Unless otherwise provided by law, the following classifications and penalties apply.

(a) A person is guilty of a Level Four violation if he or she violates any of the following provisions:

1. Section 370.081, relating to the illegal importation and possession of nonindigenous marine plants and animals.

2. Section 372.92, relating to release of reptiles of concern.

3. Rules or orders of the commission relating to the importation, possession, or release of fish and wildlife for which possession is prohibited.

(b) A person who commits any offense classified as a Level Four violation is guilty of a felony of the third degree, punishable as provided in s. 775.082 or s. 775.083 with a permanent revocation of all licenses or permits to possess captive wildlife issued under this chapter.

(5) VIOLATIONS OF SECTION.--Unless otherwise provided in this chapter, a person who violates any provision of this section is guilty, for the first offense, of a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083, and is guilty, for the second offense or any subsequent offense, of a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

(6) SUSPENSION OR REVOCATION OF LICENSE.--The court may order the suspension or revocation of any license or permit issued to a person to possess captive wildlife pursuant to this chapter if that person commits a criminal offense or a noncriminal infraction as specified under this section.

(7) CONVICTION DEFINED.--For purposes of this section, conviction means any judicial disposition other than acquittal or dismissal.

(8) COMMISSION LIMITATIONS.--Nothing herein shall limit the commission from suspending or revoking any license to possess wildlife in captivity by administrative action in accordance with chapter 120. For purposes of administrative action, a conviction of a criminal offense shall mean any judicial disposition other than acquittal or dismissal.

Section 21. Section 372.26, Florida Statutes, is amended to read:

372.26 Imported fish.--

(1) No person shall import into the state or place in any of the fresh waters of the state any freshwater fish of any species without having first obtained a permit from the Fish and Wildlife Conservation Commission. The commission is authorized to issue or deny such a permit upon the completion of studies of the species made by it to determine any detrimental effect the species might have on the ecology of the state.

(2) A person who violates this section commits a Level Three violation under s. 372.83 ~~Persons in violation of this section shall be guilty of a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083~~.

Section 22. Section 372.265, Florida Statutes, is amended to read:

372.265 Regulation of foreign animals.--

(1) It is unlawful to import for sale or use, or to release within this state, any species of the animal kingdom not indigenous to Florida without having obtained a permit to do so from the Fish and Wildlife Conservation Commission.

(2) The Fish and Wildlife Conservation Commission is authorized to issue or deny such a permit upon the completion of studies of the species made by it to determine any detrimental effect the species might have on the ecology of the state.

(3) A person ~~Persons~~ in violation of this section commits a Level Three violation under s. 372.83 ~~shall be guilty of a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083~~.

Section 23. Subsection (2) of section 372.661, Florida Statutes, is amended to read:

372.661 Private hunting preserve license fees; exception.--

(2) A commercial hunting preserve license, which shall exempt patrons of licensed preserves from the license and permit requirements of s. 372.57(4)(c), (d), (f), (h), (i), and (j); (5)(f) and (g); (8)(a), (b), and (e)~~, and (f)~~; (9)(a)2.; (11); and (12) while hunting on the licensed preserve property, shall be $500. Such commercial hunting preserve license shall be available only to those private hunting preserves licensed pursuant to this section which are operated exclusively for commercial purposes, which are open to the public, and for which a uniform fee is charged to patrons for hunting privileges.

Section 24. Section 372.662, Florida Statutes, is amended to read:

372.662 Unlawful sale, possession, or transporting of alligators or alligator skins.--Whenever the sale, possession, or transporting of alligators or alligator skins is prohibited by any law of this state, or by the rules, regulations, or

orders of the Fish and Wildlife Conservation Commission adopted pursuant to s. 9, Art. IV of the State Constitution, the sale, possession, or transporting of alligators or alligator skins is a Level Three violation under s. 372.83 ~~misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083~~.

Section 25. Section 372.667, Florida Statutes, is amended to read:

372.667 Feeding or enticement of alligators or crocodiles unlawful; penalty.--

(1) No person shall intentionally feed, or entice with feed, any wild American alligator (Alligator mississippiensis) or American crocodile (Crocodylus acutus). However, the provisions of this section shall not apply to:

(a) Those persons feeding alligators or crocodiles maintained in protected captivity for educational, scientific, commercial, or recreational purposes.

(b) Fish and Wildlife Conservation Commission personnel, persons licensed or otherwise authorized by the commission, or county or municipal animal control personnel when relocating alligators or crocodiles by baiting or enticement.

(2) For the purposes of this section, the term "maintained in protected captivity" means held in captivity under a permit issued by the Fish and Wildlife Conservation Commission pursuant to s. 372.921 or s. 372.922.

(3) Any person who violates this section commits a Level Two violation under s. 372.83 ~~is guilty of a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083~~.

Section 26. Section 372.705, Florida Statutes, is amended to read:

372.705 Harassment of hunters, trappers, or fishers.--

(1) A person may not intentionally, within a publicly or privately owned wildlife management or fish management area or on any state-owned water body:

(a) Interfere with or attempt to prevent the lawful taking of fish, game, or nongame animals by another.

(b) Attempt to disturb fish, game, or nongame animals or attempt to affect their behavior with the intent to prevent their lawful taking by another.

(2) Any person who violates this section commits a Level Two violation under s. 372.83 ~~subsection (1) is guilty of a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083~~.

Section 27. Section 372.988, Florida Statutes, is amended to read:

372.988 Required clothing for persons hunting deer.--It is a Level One violation under s. 372.83 ~~unlawful~~ for any person to hunt deer, or for any person to accompany another person hunting deer, during the open season for the taking of deer on public lands unless each person shall wear a total of at least 500 square inches of daylight fluorescent orange material as an outer garment. Such clothing shall be worn above the waistline and may include a head covering. The provisions of this section shall not apply to any person hunting deer with a bow and arrow during seasons restricted to hunting with a bow and arrow.

Section 28. Subsection (1) of section 372.99022, Florida Statutes, is amended to read:

372.99022 Illegal molestation of or theft from freshwater fishing gear.--

(1)(a) Any person, firm, or corporation that willfully molests any authorized and lawfully permitted freshwater fishing gear belonging to another without the express written consent of the owner commits a Level Four violation under s. 372.83 ~~felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084~~. Any written consent must be available for immediate inspection.

(b) Any person, firm, or corporation that willfully removes the contents of any authorized and lawfully permitted freshwater fishing gear belonging to another without the express written consent of the owner commits a Level Four violation under s. 372.83 ~~felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084~~. Any written consent must be available for immediate inspection.

A person, firm, or corporation that receives a citation for a violation of this subsection is prohibited, immediately upon receipt of such citation and until adjudicated or convicted of a felony under this subsection, from transferring any endorsements.

Section 29. Section 372.99, Florida Statutes, is amended to read:

372.99 Illegal taking and possession of deer and wild turkey; evidence; penalty.--

(1) Whoever takes or kills any deer or wild turkey, or possesses a freshly killed deer or wild turkey, during the closed season prescribed by law or by the rules and regulations of the Fish and Wildlife Conservation Commission, or whoever takes or attempts to take any deer or wild turkey by the use of gun and light in or out of closed season, commits a Level Three violation under s. 372.83 ~~is guilty of a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083,~~ and shall forfeit any license or permit issued to her or him under the provisions of this chapter. No license shall be issued to such person for a period of 3 years following any such violation on the first offense. Any person guilty of a second or subsequent violation shall be permanently ineligible for issuance of a license or permit thereafter.

(2) The display or use of a light in a place where deer might be found and in a manner capable of disclosing the presence of deer, together with the possession of firearms or other weapons customarily used for the taking of deer, between 1 hour after sunset and 1 hour before sunrise, shall be prima facie evidence of an intent to violate the provisions of subsection (1). This subsection does not apply to an owner or her or his employee when patrolling or inspecting the land of the owner, provided the employee has satisfactory proof of employment on her or his person.

(3) Whoever takes or kills any doe deer; fawn or baby deer; or deer, whether male or female, which does not have one or more antlers at least 5 inches in length, except as provided by law or the rules of the Fish and Wildlife Conservation

Commission, during the open season prescribed by the rules of the commission, commits a Level Three violation under s. 372.83 ~~is guilty of a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083,~~ and may be required to forfeit any license or permit issued to such person for a period of 3 years following any such violation on the first offense. Any person guilty of a second or subsequent violation shall be permanently ineligible for issuance of a license or permit thereafter.

(4) Any person who cultivates agricultural crops may apply to the Fish and Wildlife Conservation Commission for a permit to take or kill deer on land which that person is currently cultivating. When said person can show, to the satisfaction of the Fish and Wildlife Conservation Commission, that such taking or killing of deer is justified because of damage to the person's crops caused by deer, the Fish and Wildlife Conservation Commission may issue a limited permit to the applicant to take or kill deer without being in violation of subsection (1) or subsection (3).

(5) Whoever possesses for sale or sells deer or wild turkey taken in violation of this chapter or the rules and regulations of the commission commits a Level Four violation under s. 372.83 ~~is guilty of a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084~~.

(6) Any person who enters upon private property and shines lights upon such property, without the express permission of the owner of the property and with the intent to take deer by utilizing such shining lights, commits a Level Three violation

under s. 372.83 ~~shall be guilty of a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083~~.

Section 30. Subsection (1) of section 372.9903, Florida Statutes, is amended to read:

372.9903 Illegal possession or transportation of freshwater game fish in commercial quantities; penalty.--

(1) Whoever possesses, moves, or transports any black bass, bream, speckled perch, or other freshwater game fish in commercial quantities in violation of law or the rules of the Fish and Wildlife Conservation Commission commits a Level Three violation under s. 372.83 ~~shall be guilty of a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083~~.

Section 31. Section 372.831, Florida Statutes, is created to read:

372.831 Wildlife Violators Compact.--The Wildlife Violators Compact is created and entered into with all other jurisdictions legally joining therein in the form substantially as follows:

ARTICLE I

Findings and Purpose

(1) The participating states find that:

(a) Wildlife resources are managed in trust by the respective states for the benefit of all residents and visitors.

(b) The protection of the wildlife resources of a state is materially affected by the degree of compliance with state

statutes, laws, regulations, ordinances, and administrative rules relating to the management of such resources.

(c) The preservation, protection, management, and restoration of wildlife contributes immeasurably to the aesthetic, recreational, and economic aspects of such natural resources.

(d) Wildlife resources are valuable without regard to political boundaries; therefore, every person should be required to comply with wildlife preservation, protection, management, and restoration laws, ordinances, and administrative rules and regulations of the participating states as a condition precedent to the continuance or issuance of any license to hunt, fish, trap, or possess wildlife.

(e) Violation of wildlife laws interferes with the management of wildlife resources and may endanger the safety of persons and property.

(f) The mobility of many wildlife law violators necessitates the maintenance of channels of communication among the various states.

(g) In most instances, a person who is cited for a wildlife violation in a state other than his or her home state is:

1. Required to post collateral or a bond to secure appearance for a trial at a later date;

2. Taken into custody until the collateral or bond is posted; or

3. Taken directly to court for an immediate appearance.

(h) The purpose of the enforcement practices set forth in paragraph (g) is to ensure compliance with the terms of a wildlife citation by the cited person who, if permitted to continue on his or her way after receiving the citation, could return to his or her home state and disregard his or her duty under the terms of the citation.

(i) In most instances, a person receiving a wildlife citation in his or her home state is permitted to accept the citation from the officer at the scene of the violation and immediately continue on his or her way after agreeing or being instructed to comply with the terms of the citation.

(j) The enforcement practices described in paragraph (g) cause unnecessary inconvenience and, at times, a hardship for the person who is unable at the time to post collateral, furnish a bond, stand trial, or pay a fine, and thus is compelled to remain in custody until some alternative arrangement is made.

(k) The enforcement practices described in paragraph (g) consume an undue amount of time of law enforcement agencies.

(2) It is the policy of the participating states to:

(a) Promote compliance with the statutes, laws, ordinances, regulations, and administrative rules relating to the management of wildlife resources in their respective states.

(b) Recognize a suspension of the wildlife license privileges of any person whose license privileges have been suspended by a participating state and treat such suspension as if it had occurred in each respective state.

(c) Allow a violator, except as provided in subsection (2) of Article III, to accept a wildlife citation and, without

delay, proceed on his or her way, whether or not the violator is a resident of the state in which the citation was issued, if the violator's home state is party to this compact.

(d) Report to the appropriate participating state, as provided in the compact manual, any conviction recorded against any person whose home state was not the issuing state.

(e) Allow the home state to recognize and treat convictions recorded against its residents, which convictions occurred in a participating state, as though they had occurred in the home state.

(f) Extend cooperation to its fullest extent among the participating states for enforcing compliance with the terms of a wildlife citation issued in one participating state to a resident of another participating state.

(g) Maximize the effective use of law enforcement personnel and information.

(h) Assist court systems in the efficient disposition of wildlife violations.

(3) The purpose of this compact is to:

(a) Provide a means through which participating states may join in a reciprocal program to effectuate the policies enumerated in subsection (2) in a uniform and orderly manner.

(b) Provide for the fair and impartial treatment of wildlife violators operating within participating states in recognition of the violator's right to due process and the sovereign status of a participating state.

ARTICLE II

Definitions

As used in this compact, the term:

(1) "Citation" means any summons, complaint, summons and complaint, ticket, penalty assessment, or other official document issued to a person by a wildlife officer or other peace officer for a wildlife violation which contains an order requiring the person to respond.

(2) "Collateral" means any cash or other security deposited to secure an appearance for trial in connection with the issuance by a wildlife officer or other peace officer of a citation for a wildlife violation.

(3) "Compliance" with respect to a citation means the act of answering a citation through an appearance in a court or tribunal, or through the payment of fines, costs, and surcharges, if any.

(4) "Conviction" means a conviction, including any court conviction, for any offense related to the preservation, protection, management, or restoration of wildlife which is prohibited by state statute, law, regulation, ordinance, or administrative rule that results in suspension or revocation of a license. The term also includes the forfeiture of any bail, bond, or other security deposited to secure appearance by a person charged with having committed any such offense, the payment of a penalty assessment, a plea of nolo contendere, or the imposition of a deferred or suspended sentence by the court.

(5) "Court" means a court of law, including magistrate's court and the justice of the peace court.

(6) "Home state" means the state of primary residence of a person.

(7) "Issuing state" means the participating state that issues a wildlife citation to the violator.

(8) "License" means any license, permit, or other public document that conveys to the person to whom it was issued the privilege of pursuing, possessing, or taking any wildlife regulated by statute, law, regulation, ordinance, or administrative rule of a participating state; any privilege to obtain such license, permit, or other public document; or any statutory exemption from the requirement to obtain such license, permit, or other public document. However, when applied to licenses issued by the State of Florida, only those licenses issued or privileges authorized pursuant to s. 372.561, s. 372.562, or s. 372.57 shall be considered licenses.

(9) "Licensing authority" means the department or division within each participating state that is authorized by law to issue or approve licenses or permits to hunt, fish, trap, or possess wildlife.

(10) "Participating state" means any state that enacts legislation to become a member of this wildlife compact.

(11) "Personal recognizance" means an agreement by a person made at the time of issuance of the wildlife citation that such person will comply with the terms of the citation.

(12) "State" means any state, territory, or possession of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Provinces of Canada, and other countries.

(13) "Suspension" means any revocation, denial, or withdrawal of any or all license privileges, including the privilege to apply for, purchase, or exercise the benefits conferred by any license.

(14) "Terms of the citation" means those conditions and options expressly stated upon the citation.

(15) "Wildlife" means all species of animals, including, but not limited to, mammals, birds, fish, reptiles, amphibians, mollusks, and crustaceans, which are defined as "wildlife" and are protected or otherwise regulated by statute, law, regulation, ordinance, or administrative rule in a participating state. Species included in the definition of "wildlife" vary from state to state and the determination of whether a species is "wildlife" for the purposes of this compact shall be based on local law.

(16) "Wildlife law" means any statute, law, regulation, ordinance, or administrative rule developed and enacted for the management of wildlife resources and the uses thereof.

(17) "Wildlife officer" means any individual authorized by a participating state to issue a citation for a wildlife violation.

(18) "Wildlife violation" means any cited violation of a statute, law, regulation, ordinance, or administrative rule developed and enacted for the management of wildlife resources and the uses thereof.

ARTICLE III

Procedures for Issuing State

(1) When issuing a citation for a wildlife violation, a wildlife officer shall issue a citation to any person whose primary residence is in a participating state in the same manner as though the person were a resident of the issuing state and shall not require such person to post collateral to secure appearance, subject to the exceptions noted in subsection (2), if the officer receives the recognizance of such person that he will comply with the terms of the citation.

(2) Personal recognizance is acceptable if not prohibited by local law; by policy, procedure, or regulation of the issuing agency; or by the compact manual and if the violator provides adequate proof of identification to the wildlife officer.

(3) Upon conviction or failure of a person to comply with the terms of a wildlife citation, the appropriate official shall report the conviction or failure to comply to the licensing authority of the participating state in which the wildlife citation was issued. The report shall be made in accordance with procedures specified by the issuing state and must contain information as specified in the compact manual as minimum requirements for effective processing by the home state.

(4) Upon receipt of the report of conviction or noncompliance pursuant to subsection (3), the licensing authority of the issuing state shall transmit to the licensing authority of the home state of the violator the information in the form and content prescribed in the compact manual.

ARTICLE IV

Procedure for Home State

(1) Upon receipt of a report from the licensing authority of the issuing state reporting the failure of a violator to comply with the terms of a citation, the licensing authority of the home state shall notify the violator and shall initiate a suspension action in accordance with the home state's suspension procedures and shall suspend the violator's license privileges until satisfactory evidence of compliance with the terms of the wildlife citation has been furnished by the issuing state to the home state licensing authority. Due process safeguards shall be accorded.

(2) Upon receipt of a report of conviction from the licensing authority of the issuing state, the licensing authority of the home state shall enter such conviction in its records and shall treat such conviction as though it occurred in the home state for purposes of the suspension of license privileges.

(3) The licensing authority of the home state shall maintain a record of actions taken and shall make reports to issuing states as provided in the compact manual.

ARTICLE V

Reciprocal Recognition of Suspension

(1) Each participating state may recognize the suspension of license privileges of any person by any other participating state as though the violation resulting in the suspension had

occurred in that state and would have been the basis for suspension of license privileges in that state.

(2) Each participating state shall communicate suspension information to other participating states in the form and content contained in the compact manual.

ARTICLE VI

Applicability of Other Laws

Except as expressly required by provisions of this compact, this compact does not affect the right of any participating state to apply any of its laws relating to license privileges to any person or circumstance or to invalidate or prevent any agreement or other cooperative arrangement between a participating state and a nonparticipating state concerning the enforcement of wildlife laws.

ARTICLE VII

Compact Administrator Procedures

(1) For the purpose of administering the provisions of this compact and to serve as a governing body for the resolution of all matters relating to the operation of this compact, a board of compact administrators is established. The board shall be composed of one representative from each of the participating states to be known as the compact administrator. The compact administrator shall be appointed by the head of the licensing authority of each participating state and shall serve and be

subject to removal in accordance with the laws of the state he or she represents. A compact administrator may provide for the discharge of his or her duties and the performance of his or her functions as a board member by an alternate. An alternate is not entitled to serve unless written notification of his or her identity has been given to the board.

(2) Each member of the board of compact administrators shall be entitled to one vote. No action of the board shall be binding unless taken at a meeting at which a majority of the total number of the board's votes are cast in favor thereof. Action by the board shall be only at a meeting at which a majority of the participating states are represented.

(3) The board shall elect annually from its membership a chair and vice chair.

(4) The board shall adopt bylaws not inconsistent with the provisions of this compact or the laws of a participating state for the conduct of its business and shall have the power to amend and rescind its bylaws.

(5) The board may accept for any of its purposes and functions under this compact any and all donations and grants of moneys, equipment, supplies, materials, and services, conditional or otherwise, from any state, the United States, or any governmental agency, and may receive, use, and dispose of the same.

(6) The board may contract with, or accept services or personnel from, any governmental or intergovernmental agency, individual, firm, corporation, or private nonprofit organization or institution.

(7) The board shall formulate all necessary procedures and develop uniform forms and documents for administering the provisions of this compact. All procedures and forms adopted pursuant to board action shall be contained in a compact manual.

ARTICLE VIII

Entry into Compact and Withdrawal

(1) This compact shall become effective at such time as it is adopted in substantially similar form by two or more states.

(2)(a) Entry into the compact shall be made by resolution of ratification executed by the authorized officials of the applying state and submitted to the chair of the board.

(b) The resolution shall substantially be in the form and content as provided in the compact manual and must include the following:

1. A citation of the authority from which the state is empowered to become a party to this compact.

2. An agreement of compliance with the terms and provisions of this compact.

3. An agreement that compact entry is with all states participating in the compact and with all additional states legally becoming a party to the compact.

(c) The effective date of entry shall be specified by the applying state but may not be less than 60 days after notice has been given by the chair of the board of the compact administrators or by the secretariat of the board to each

participating state that the resolution from the applying state has been received.

(3) A participating state may withdraw from participation in this compact by official written notice to each participating state, but withdrawal shall not become effective until 90 days after the notice of withdrawal is given. The notice must be directed to the compact administrator of each member state. The withdrawal of any state does not affect the validity of this compact as to the remaining participating states.

ARTICLE IX

Amendments to the Compact

(1) This compact may be amended from time to time. Amendments shall be presented in resolution form to the chair of the board of compact administrators and shall be initiated by one or more participating states.

(2) Adoption of an amendment shall require endorsement by all participating states and shall become effective 30 days after the date of the last endorsement.

ARTICLE X

Construction and Severability

This compact shall be liberally construed so as to effectuate the purposes stated herein. The provisions of this compact are severable and if any phrase, clause, sentence, or provision of this compact is declared to be contrary to the constitution of

any participating state or of the United States, or if the applicability thereof to any government, agency, individual, or circumstance is held invalid, the validity of the remainder of this compact shall not be affected thereby. If this compact is held contrary to the constitution of any participating state, the compact shall remain in full force and effect as to the remaining states and in full force and effect as to the participating state affected as to all severable matters.

Section 32. Section 372.8311, Florida Statutes, is created to read:

372.8311 Compact licensing and enforcement authority; administrative review.--

(1) For purposes of this chapter and the interstate Wildlife Violators Compact, the Fish and Wildlife Conservation Commission is the licensing authority for the State of Florida and the commission shall enforce the interstate Wildlife Violators Compact and shall do all things within the commission's jurisdiction that are necessary to effectuate the purposes and the intent of the compact. The commission may execute a resolution of ratification to formalize the State of Florida's entry into the compact. Upon adoption of the interstate Wildlife Violators Compact, the commission may adopt rules to administer the provisions of the compact.

(2) Any act done or omitted pursuant to, or in enforcing, the provisions of this compact are subject to review in accordance with chapter 120, Florida Statutes. Notwithstanding any other provision of this section, actions taken by another state or its courts shall not be reviewable.

Section 33. Sections 372.711 and 372.912, Florida Statutes, are repealed.

Section 34. This act shall take effect October 1, 2006.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 507 CS Exemptions from the Tax on Sales, Use, and Other Transactions
SPONSOR(S): Kreegel and others
TIED BILLS: **IDEN./SIM. BILLS:** SB 2410

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) Agriculture Committee	7 Y, 0 N, w/CS	Kaiser	Reese
2) Finance & Tax Committee	7 Y, 0 N, w/CS	Noriega	Diez-Arguelles
3) State Resources Council		Kaiser	Hamby
4)			
5)			

SUMMARY ANALYSIS

This bill provides a sales tax exemption for purchases of low-volume irrigation, or microirrigation equipment, or components that are used exclusively in agricultural production. The bill also provides definitions for low-volume irrigation, microirrigation, and their related components.

The bill deletes sales tax exemptions for generators used on poultry farms and for liquefied petroleum gas or other fuel used to heat a structure in which started pullets or broilers are raised. These exemptions are addressed in other provisions of Chapter 212, F.S.

The Revenue Estimating Conference estimates that the provisions of this bill will result in a negative fiscal impact of $2.9 million to state government and $0.7 million to local governments in FY 2006-07, and of $3.2 million to state government and $0.7 million to local governments in FY 2007-08.

The bill has an effective date of July 1, 2006.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Ensure lower taxes: This bill provides a sales tax exemption for the purchase of low-volume irrigation, or microirrigation equipment, or components that are used exclusively in agricultural production.

B. EFFECT OF PROPOSED CHANGES:

Current Situation

Section 212.02, F.S., defines terms and phrases used in Chapter 212, F.S., Sales and Use Tax. There is currently no definition or specific exemption for the terms "low-volume irrigation" or "microirrigation."

Section 212.08(3), F.S., provides an exemption for "power farm equipment," including generators and power units used on a farm or in a forest in the agricultural production of crops or products.

Section 212.08(5), F.S., provides exemptions for different categories on account of use. Section 212.08(5)(a), F.S., provides exemptions for items in agricultural use, which include exemptions for generators used on poultry farms, and liquefied petroleum gas or other fuel used to heat a structure in which started pullets or broilers are raised.

Section 212.08(5)(e), F.S., provides an exemption for butane gas, propane gas, natural gas, and all other forms of liquefied petroleum gas used in any tractor, vehicle, or other farm equipment that is used exclusively on a farm or for processing farm products on the farm. This exemption includes fuel used to operate heating equipment for a structure in which started pullets or broilers are raised.

Proposed Changes

The bill provides a sales tax exemption for the purchase of low-volume irrigation, or microirrigation equipment, or components that are used exclusively in agricultural production.

The bill defines low-volume irrigation or microirrigation as irrigation by means of frequent application of small quantities of water directly on or below the soil surface, usually as discrete drops, tiny streams, or miniature sprays through emitters placed along the water delivery pipes.

Low-volume irrigation and microirrigation systems are designed to deliver water at a rate of 45 gallons per hour or less per exit point. System components include pumps, pumping stations, control stations, filtration equipment pressure regulators, piping, tubing, emitters, valves, fittings, gauges, sensors, sprinklers, and safety devices.

The bill deletes the exemption for generators used on poultry farms from s. 212.08(5)(a), F.S. Generators used on poultry farms remain exempt under the provisions of s. 212.08(3), F.S.

The bill also deletes the exemption for liquefied petroleum gas or other fuel used to heat a structure in which started pullets or broilers are raised from s. 212.08(5)(a), F.S. Fuel used for such purposes remains exempt under the provisions of s. 212.08(5)(e), F.S.

C. SECTION DIRECTORY:

Section 1. Creates s. 212.02(33), F.S., by providing definitions.

Section 2. Amends s. 212.08(5)(a), F.S., by providing a new exemption, and by deleting exemptions found in other provisions of s. 212.08, F.S.

Section 3. Provides an effective date of July 1, 2006.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

The Revenue Estimating Conference has estimated that this bill will have the following negative fiscal impact on state government:

	2006-07	2007-08
General Revenue	(2.9m)	(3.2m)
State Trust	(Insignificant)	(Insignificant)
Total	(2.9m)	(3.2m)

2. Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

The Revenue Estimating Conference has estimated that this bill will have the following negative fiscal impact on local governments:

	2006-07	2007-08
Revenue Sharing	(0.1m)	(0.1m)
Local Gov't. Half Cent	(0.3m)	(0.3m)
Local Option	(0.3m)	(0.3m)
Total Local Impact	(0.7m)	(0.7m)

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Persons purchasing low-volume irrigation, or microirrigation equipment, or their components for use in agricultural production will no longer be required to pay the applicable sales tax on these products.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

   The mandates provision appears to apply because the bill reduces the authority that counties have to raise revenues through local option sales taxes; however, the amount of the reduction is insignificant and an exemption applies. Accordingly, the bill does not require a two-thirds vote of the membership of each house.

2. Other:

   None.

B. RULE-MAKING AUTHORITY:

   None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

   The Department of Revenue (DOR) will issue a Tax Information Publication (TIP) to inform affected equipment dealers regarding the exemption for low-volume or microirrigation equipment.

   DOR also recommends inserting a comma on page 2, line 36, to separate "filtration equipment" from "pressure regulators."

IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES

On February 22, 2006, the Agriculture Committee adopted a strike-all amendment to the bill. The strike-all amendment provided a sales tax exemption on the purchase of low-volume irrigation, or microirrigation equipment, or components used in agricultural production.

On April 17, 2006, the Finance and Tax Committee adopted one amendment to the bill. This amendment changed the effective date of the bill from upon becoming a law to an effective date of July 1, 2006.

The bill was then reported favorably with a committee substitute, and this analysis reflects the change contained in the amendment adopted by the Finance and Tax Committee.

CHAMBER ACTION

The Finance & Tax Committee recommends the following:

Council/Committee Substitute

Remove the entire bill and insert:

A bill to be entitled

An act relating to exemptions from the tax on sales, use, and other transactions; amending s. 212.02, F.S.; defining the term "low-volume irrigation" or "microirrigation"; amending s. 212.08, F.S.; including in the exemption for items in agricultural use certain agricultural machinery or farm equipment used for low-volume irrigation or microirrigation; deleting certain exemptions relating to certain equipment and fuel used in breeding poultry; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Subsection (33) is added to section 212.02, Florida Statutes, to read:

212.02 Definitions.--The following terms and phrases when used in this chapter have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

(33) "Low-volume irrigation" or "microirrigation" means irrigation by means of frequent application of small quantities of water directly on or below the soil surface, usually as discrete drops, tiny streams, or miniature sprays through emitters placed along the water delivery pipes. Low-volume irrigation and microirrigation systems are designed to deliver water at a rate of 45 gallons per hour or less per exit point. The physical components required to apply water by low-volume irrigation or microirrigation methods include all equipment and system components necessary to transport water from the pump or pumping station to the crop through the low-volume irrigation or microirrigation system. System components include pumps, pumping stations, control stations, filtration equipment pressure regulators, piping, tubing, emitters, valves, fittings, gauges, sensors, sprinklers, and safety devices.

Section 2. Paragraph (a) of subsection (5) of section 212.08, Florida Statutes, is amended to read:

212.08 Sales, rental, use, consumption, distribution, and storage tax; specified exemptions.--The sale at retail, the rental, the use, the consumption, the distribution, and the storage to be used or consumed in this state of the following are hereby specifically exempt from the tax imposed by this chapter.

(5) EXEMPTIONS; ACCOUNT OF USE.--

(a) Items in agricultural use and certain nets.--There are exempt from the tax imposed by this chapter nets designed and used exclusively by commercial fisheries; disinfectants, fertilizers, insecticides, pesticides, herbicides, fungicides,

and weed killers used for application on crops or groves, including commercial nurseries and home vegetable gardens, used in dairy barns or on poultry farms for the purpose of protecting poultry or livestock, or used directly on poultry or livestock; portable containers or movable receptacles in which portable containers are placed, used for processing farm products; field and garden seeds, including flower seeds; nursery stock, seedlings, cuttings, or other propagative material purchased for growing stock; seeds, seedlings, cuttings, and plants used to produce food for human consumption; cloth, plastic, and other similar materials used for shade, mulch, or protection from frost or insects on a farm; and low-volume irrigation or microirrigation equipment or components, as defined in s. 212.02(33), used in agricultural production ~~generators used on poultry farms; and liquefied petroleum gas or other fuel used to heat a structure in which started pullets or broilers are raised~~; however, such exemption shall not be allowed unless the purchaser or lessee signs a certificate stating that the item to be exempted is for the exclusive use designated herein. Also exempt are cellophane wrappers, glue for tin and glass (apiarists), mailing cases for honey, shipping cases, window cartons, and baling wire and twine used for baling hay, when used by a farmer to contain, produce, or process an agricultural commodity.

Section 3. This act shall take effect July 1, 2006.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 733 CS Airboats
SPONSOR(S): Dean and others
TIED BILLS: **IDEN./SIM. BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) Water & Natural Resources Committee	11 Y, 0 N, w/CS	Winker	Lotspeich
2) Agriculture & Environment Appropriations Committee	11 Y, 0 N, w/CS	Davis	Dixon
3) State Resources Council		Winker KW	Hamby JAD
4)			
5)			

SUMMARY ANALYSIS

The bill addresses several issues relating to the operation of airboats. Specifically, the bill:

- Amends s. 327.02(1), F.S., by defining the terms "airboat" and "muffler" for airboats.
- Creates s. 327.391, F.S., providing for the regulation by the Fish and Wildlife Conservation Commission (FWCC) of airboats and their operation and equipment.
- Requires that airboats have a muffler on their engine capable of effectively and adequately muffling the sound of the exhaust from the engine, except for persons engaged in a regatta, race, marine parade, tournament, or exhibition.
- Provides that an airboat cited for a violation of the muffler requirement must show proof of the installation of a muffler before the airboat can be operated on the waters of the state.
- Requires airboats to be equipped with an orange flag at least 10 inches by 12 inches flying at least 10 feet above the lowest portion of the vessel and that failure to have the flag would be a violation constituting a non-criminal infraction.
- Requires persons convicted of two infractions of the airboat muffler and flag requirements to complete a boating safety course.
- Adds newly created airboat requirements to the list of non-criminal infractions.

The bill has an indeterminate fiscal impact and becomes effective on October 1, 2006.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Provide limited government – The bill provides for additional regulations by Fish and Wildlife Conservation Commission for the operation and equipping of airboats.

B. EFFECT OF PROPOSED CHANGES:

PRESENT SITUATION

Background

Airboats have a long history going as far back as the early 1900s. Around 1905, Alexander Graham Bell joined a team of aviation and boating inventors, including Glenn H. Curtis, early aviator and the inventor of aircraft engines, in Halifax, Nova Scotia where experiments were conducted combining aircraft engines and props and boats. Around 1920, Curtis moved to South Florida and introduced the first airboat to the Florida Everglades.[1]

According to the American Airboat Corporation an airboat is defined as a "buoyant self-propelled multi-terrain vehicle that depends on air thrust for propulsion."[2] Airboats have also been defined as flat-bottomed boats (or punts) powered by a propeller attached to an automobile or aircraft engine. The propeller spins at high speed and requires a large metal cage to protect passengers. The flat bottom of the boat allows airboats to navigate easily through shallow swamps and marshes as well as canals, rivers, and lakes. Drivers of airboats sit high on a platform to improve visibility and for spotting floating obstacles and animals in the airboat's path. Steering of the airboat is accomplished by swiveling vertical fins positioned in the propeller wash. Airboats vary in size from up to 20 (or more) person tour airboats to trail airboats for two to three passengers.

According to the American Airboat Corporation, airboats can reach speeds of 45 mph on land, 60 mph on water, and 70 mph on ice, with the top speed of about 135 mph on smooth, shallow water.

Before 1980, 90% of the airboats used aircraft engines to power the propeller. The rest used automotive engines. Since 1980, 90% of the airboats built have automotive engines because of their ease of maintenance and more readily available parts. Because of the engines used on airboats and the use of the propeller for moving the airboat, airboats typically generate high noise levels.

National Association of State Boating Law Administrators Model Motorboat Noise Act

The National Association of State Boating Law Administrators (NASBLA) represents the boating authorities of all 50 states. In 1989, the NASBLA adopted a model act for motorboat noise. On September 21, 2005, the act was made a part of the 2005 NASBLA Model Acts Review and Standardization Project. The act requires that all motorboats with above-water exhaust install mufflers to reduce exhaust noise and limit shoreline sound level to 75 decibels.

According to the NASBLA (see www.nasbla.org), 32 states have adopted noise regulations equivalent to the requirements described in the Model Act for Motorboat Noise.

[1] See http://www.glenncurtissmemorialpark.com/curtisshistory.html
[2] See http://www.americanairboats.com-FAQ.htm

The intent of the Model Act is to address motorboat noise and does not address noise generated from other means such as the propeller on an airboat. However, since many airboat associations, including many Florida airboat associations, have expressed the desire that airboats not be discriminated against in the application of noise regulations, it is useful to briefly discuss the NASBLA Model Act.

In the Model Act, the term "muffler" is defined "as a sound suppression device or system designed and installed to abate the sound of exhaust gases emitted from an internal combustion engine and which prevents excessive or unusual noise."

The Model Act provides for noise level restrictions for motorboats. Under the provisions of the Model Act, no motorboat operator shall operate a motorboat that exceeds the following noise levels:

- For engines manufactured before January 1, 1993, a noise level of 90 decibels.
- For engines manufactured on or after January 1, 1993, a noise level of 88 decibels.

The Model Act establishes requirements for mufflers which include the following:

- Every motorboat shall at all times be equipped with a muffler or a muffler system in good working order and in constant operation and effectively installed to prevent any excessive or unusual noise.
- No person shall operate any motorboat that is equipped with an altered muffler or a muffler cutout or bypass or that otherwise reduces or eliminates the effectiveness of any muffler or muffler system.
- No person shall remove, alter, or otherwise modify in any way a muffler or muffler system in a manner that prevents it from being operated in accordance with the provisions of the act.

The Act provides that no person shall manufacture or sell any motorboat with a muffler or muffler system which does not comply with the noise restrictions stated above.

The Act provides exemptions for the motorboat noise restrictions. Such restrictions do not apply to motorboats registered and actually participating in a racing event or tune-up periods for such racing events which must be conducted in accordance with and permitted by the United States Coast Guard or the state boating authority.

And finally, the Act includes provisions for the enforcement of the noise restrictions. Any law enforcement officer authorized to enforce the noise level provisions of the act who has reason to believe that a motorboat is not in compliance with the noise levels of the act, may direct the person operating the motorboat to submit the motorboat to an on-site test to measure the noise level. If the motorboat exceeds the noise level, the officer may direct the operator to take immediate and reasonable measures to correct the violation, including returning the motorboat to a mooring and keeping the motorboat at the mooring until the violation is corrected and ceases.

Florida Airboat Associations

There are a number of airboat associations throughout Florida and a statewide airboat association called the Florida Airboat Association (FAA). The FAA was established in 1994 and according to its website (www.flairboat.com) is "dedicated to the conservation of our natural resources, the preservation of sportsmen's rights and the promotion of boating safety through community involvement and public education." In addition to the statewide airboat association, there are a number of local airboat associations, including:

- Brevard Airboat and Powerboat Association
- Broward County Airboat, Halftrack, and Conservation Club
- Citrus County Airboat Alliance
- Glades Airboat and Buggy Association

- Highlands Airboat Association
- Indian River County Boat Association
- Kissimmee River Valley Sportsman Association
- Lake County Airboat Association
- Lake Okeechobee Airboat Association
- National Airboat Racing Association (Florida branch)
- Osceola Airboat Association
- Orange County Airboat Association
- Palm Beach County Airboat and Halftrack Conservation Club
- Peace River Valley Airboat Club
- Seminole County Airboat Club
- Volusia County Airboat Association
- Airboat Association of Florida
- West Coast Airboat Club
- Withlacoochee Region Airboat Association

Current Law

Chapter 327, F.S., the Florida Vessel Safety Law, provides the FWCC with authority over the operation, regulation, and safety of vessels on Florida waters. Section 327.02(37), F.S., defines a vessel to be synonymous with "boat" as referenced in s. 1(b), Art. VII of the State Constitution, and includes every description of watercraft, barge, and airboat, other than a seaplane on the water, used or capable of being used as a means of transportation on water.

Sections of Chapter 327 address numerous issues relating to the regulation of vessels including such areas as: the reporting of accidents (s. 327.30, F.S.); reckless and careless operation of vessels (s. 327.33, F.S.); boating under the influence (s. 327.35, F.S.); testing for alcohol, chemical or controlled substances (s. 327.352, F.S.); personal watercraft regulations (s. 327.39, F.S.); boating safety courses and identification cards (s. 327.395, F.S.); the creation of the Boating Advisory Council (s. 327.803, F.S.); and muffling devices on vessels (s. 327.65, F.S.).

Section 327.65(1), F.S., requires that the exhaust of every internal combustion engine used on any vessel operated on the waters of the state must be "effectively muffled" by equipment constructed and used to muffle the noise of the exhaust in a "reasonable manner." The use of "muffler cutouts" (cutouts, bypasses or other devices that increase sound pressure levels or change the original manufactured exhaust system of the vessel) is prohibited, except for vessels competing in a boating regatta or official boat race and for vessels while on trial runs.

Section 327.65(2)(a)1., F.S., authorizes counties to impose additional noise pollution and exhaust regulations on vessels by way of county ordinances. A county may adopt an ordinance which prohibits a person from operating any vessel in such a manner as to exceed 90dB A at a distance of 50 feet from the vessel. The term "dB A" means "the composite abbreviation for the A-weighted sound level and the unit of sound level, the decibel." "Sound level" means "the A-weighted sound pressure measured with fast response using an instrument complying with the specifications for sound level meters of the American National Standards Institute, Inc., or its successor bodies, except that only a weighting and fast dynamic response need be provided."[3]

Section 327.65(2)(a)2., F.S., provides that any person operating a vessel and who refuses to submit to a sound level test when requested to do so by a law enforcement officer can be cited and could be found guilty of a misdemeanor of the second degree.

[3] Section 327.65(2)(b), F.S.

Section 327.48, F.S., establishes procedures for obtaining a permit for holding a boating regatta, tournament, boat race, marine parade, or exhibition. Should the event be held on navigable waters of the United States, a permit must be secured from the U.S. Coast Guard. For an event held in any county, the person directing the event must notify the County Sheriff or the FWCC at least 15 days prior to the event "in order that appropriate arrangements for safety and navigation may be assured." Ant person directing such events "shall be responsible for providing adequate protection to the participants, spectators, and other users of the water."

Section 369.309, F.S., prohibits the operation of airboats on the Wekiva River System. An exemption is provided in the case of an emergency or to an employee of a municipal, county, state, or federal agency or their agents on official government business. Persons convicted for violation this prohibition shall be guilty of a second degree misdemeanor punishable as provided in s. 775.082 or s. 775.083, F.S.

Airboats and Noise Issues

According to the FWCC, the language in s. 327.65(1), F.S., regarding a vessel's (including airboats) exhaust to be "effectively muffled . . . in a reasonable manner," lacks specificity and allows for considerable room for interpretation. The FWCC, adopting the interpretation by the former Game and Fresh Water Fish Commission, permitted the use of "flex-pipe" (flexible tubing that diverts engine exhaust to behind the airboat) as an effective muffling device for airboats. Such devices became common and accepted by the airboat community. However, as the number of waterfront residences and airboats has increased over the years, the "effectiveness" of muffling airboats with "flex-pipe" has raised considerable concerns related to the noise of airboats on Florida's waterways.

In 2003, a bill was filed (SB 1012) which would have restricted airboat noise statewide to 90 decibels at 50 feet. The bill was heard in the Senate Natural Resources Committee and was amended to authorize the FWCC to adopt a rule which would provide a uniform ordinance for vessel sound regulation that could be adopted by any county or municipality. The bill did not pass out of the Senate committee; but there was an expectation that the FWCC would hold public workshops on airboat noise.

Following several public workshops held across the state, the FWCC asked the Florida Boating Advisory Council to develop a code of ethics for airboat operators (see below). In addition, FWCC staff was directed to initiate a research project (see below) that would provide direction on the types of muffling devices that could effectively muffle airboat engines.

Code of Ethics

The FWCC requested the state's Boating Advisory Council to develop an Airboat User Code of Ethics. An April 26, 2004 version of the code of ethics included the following:

- Respect the rights of everyone to enjoy Florida's waterways.
- Learn and observe all State of Florida boating regulations, navigation rules, and vessel safety equipment requirements.
- Recognize that the noise generated from an airboat propeller and engine exhaust system may annoy other people in the area.
- Equip the airboat with an approved muffling device and operate the airboat in a manner that will reduce engine exhaust sound levels.
- Operate an airboat at a slow speed on or near boat ramps and move away from the boat ramp an adequate distance before powering up the airboat, and where possible, no power loading of the airboat on to the trailer.
- Use slow speeds to reduce noise near residential and public use areas.
- Be extra cautious to reduce sound levels of an airboat during nighttime hours.
- Understand that the public will judge all airboat users by the actions of one.
- Protect natural resources and do not needlessly disturb wildlife.

Noise Study

FWCC contracted with a research team from the Florida Atlantic University (FAU) College of Engineering to conduct tests and analysis on airboat sound/noise.

The FWCC/FAU airboat sound/noise research project intended to answer the following questions:

- What level of sound can be obtained from an airboat using various automotive-type muffling devices, "flex-pipe," or other devices on the wider range of airboat propulsion systems?
- How do sound levels generated by an airboat's engine's exhaust compare to those sound levels generated by the airboat's propeller blades?
- To what extent do environmental factors affect the resonance and nature of the sound generated by an airboat?
- What mechanical and technological changes and devices could be developed and used to help quiet airboats?

The research project was conducted on a lake in the Ocala National Forest using 13 different airboat configurations with a variety of different engines, propellers, and mufflers. Sound measurement equipment and methodology were used to record and analyze the sounds generated by the test airboats at idle, 50%, and 100% operating conditions for both stationary and drive-by tests.

The findings from the research project were as follows:

- When running at full speed, airboats noise levels exceeded the current statutorily prescribed 90 decibels at 50 feet.
- When running at full speed, mufflers have little or no effect on the noise radiated by airboats.
- Mufflers do reduce an airboat's radiated noise levels at minimal planing speeds by about 4 decibels.
- At minimum planing speeds or less, most airboats meet the current statutorily prescribed 90 decibel noise limit at 50 feet.
- Flex pipes without mufflers provide some level of noise attenuation at higher airboat engine RPM, but not at lower RPM.
- Measurement of the effect of mufflers on airboats showed that they provide broadband noise attenuation at lower airboat operational speeds.
- When operating under different conditions, the noise level for an airboat's given configuration of engine, gearbox, propeller, and muffler was only a function of engine RPM, and not a function of vessel weight or speed.
- Airboat operators are likely to be at risk of hearing damage and it is likely that noise exposure limits could be exceeded for bystanders in the vicinity of boat ramps where airboats are maneuvering or power loading onto trailers.
- Sound levels generated by airboats when running at full speed are dominated by propeller noise.

In addition, the authors of the research project made the following recommendations:

- Airboat engine and propeller RPM should be minimized to reduce noise levels.
- Airboat propellers should be designed to maximize thrust at lower tip speed to reduce the noise levels of propellers.

Based on these findings and recommendations, on September 21, 2005, the FWCC directed staff to draft a new policy that would require airboats to be equipped with mufflers and that the use of flex-pipes alone would no longer be acceptable to help reduce the noise levels of airboats. FWCC staff also continued to hold public meetings throughout the state for the purpose of taking testimony from the

airboat user community and persons who are or may be adversely affected by the noise generated by airboats.

On January 24, 2006, the FWCC issued a Marine Enforcement Alert establishing a law enforcement protocol requiring airboats to use automotive-style mufflers to reduce engine exhaust sound levels. "Muffler" is defined as "an automotive-style sound suppression device or system designed and installed to abate the sound of exhaust gasses emitted from an internal combustion engine and which prevents excessive or unusual noise."

Through June 2006, the FWCC will implement a formal education effort making airboat operators and users aware of the required muffler provisions and by July 1, 2006, FWCC law enforcement officers will begin an education/enforcement phase where officers will issue warnings for non-compliance and citations for repeated non-compliance. Persons violating the muffler requirement will be charged under Section 327.65(1), F.S., as a failure to meet vessel engine exhaust muffling requirements.

EFFECT OF PROPOSED CHANGES

The bill amends s. 327.02, F.S., to add definitions for the terms "airboat" and "muffler." An "airboat" is defined as "a vessel, designed for use in shallow waters, powered by an internal combustion engine with an airplane-type propeller mounted above the stern used to push air across a single set of rudders." A "muffler" is defined as "a sound suppression device or system designed to effectively abate the sound of exhaust gases emitted from an internal combustion engine and prevent excessive sound when installed on such engine."

The bill creates s. 327.391, F.S., to provide for the regulation by the FWCC of airboats and their operation and equipment. Specifically, the provisions of the new s. 327.391, F.S.:

- Requires that an airboat must have a muffler on its engine capable of adequately muffling the sound of the exhaust of the engine.
- Prohibits the use of cutouts, except for vessels competing in a regatta or official boat race and for vessels while on trial runs at such events.
- Provides that an airboat cited for a violation of the muffling requirements of the bill, must show proof of the installation of a muffler before the airboat can be operated on the waters of the state.
- Requires airboats to be equipped with a mast or flagpole bearing a flag at a height of at least 10 feet above the lowest portion of the vessel. The flag must be at least 10 inches by 12 inches and international orange in color. Airboat operators not complying with the flag requirement may be cited for a non-criminal infraction.
- Requires persons convicted of two infractions of the airboat muffler and flag requirements to successfully complete a boating safety course.
- Adds newly created airboat requirements to the list of non-criminal infractions.
- Exempt from the requirements of the section a performer engaged in a professional exhibition and persons who are preparing to participate or who are participating in a regatta, race, marine parade, tournament or exhibition which is held in compliance with s. 327.48.

The bill makes conforming changes and corrects cross-references to several sections of statute.

The bill has an effective date of October 1, 2006.

C. SECTION DIRECTORY:

Section 1: Amends s. 327.02, F.S., by creating definitions for "airboat" and "muffler. "

Section 2: Creates s. 327.391, F.S., regulating the operation of airboats.

Section 3: Amends s. 327.73, F.S., adding newly created airboat requirements to the list of non-criminal infractions.

Section 4: Amends s. 327.731, F.S., requiring mandatory boating safety education for violators of airboat requirements.

Section 5: Amends s. 320.08, F.S., to conform a cross-reference.

Section 6: Amends s. 328.17, F.S., to conform a cross-reference.

Section 7: Amends s. 342.07, F.S., to conform a cross-reference.

Section 8: Amends s. 616.242, F.S., to conform terminology.

Section 9: Amends s. 713.78, F.S., to conform terminology.

Section 10: Amends s. 715.07, F.S., to conform a cross-reference.

Section 11: Provides an effective date of October 1, 2006.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

   None.

2. Expenditures:

   Indeterminate. See Fiscal Comments below.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

   None.

2. Expenditures:

   None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The bill requires airboat owners and the airboat industry to modify/retrofit/replace equipment to meet the requirements of this legislation. Costs associated with compliance efforts will vary and cannot be determined at this time.

D. FISCAL COMMENTS:

The bill requires proof of a muffler installation before the airboat can be further operated, if a citation is issued. This would create a tracking obligation on the part of FWCC and the development of an inspection plan to ensure compliance by persons who have been cited for a violation of the muffler requirements of the bill. FWCC is unable to provide a cost estimate for the compliance tracking system.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

The bill does not appear to require cities or counties to spend funds or take actions requiring the expenditure of funds. Nor does the bill reduce the authority that cities and counties have to raise revenues in the aggregate or reduce the percentage of a state tax shared with cities or counties.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

Although not specified in the bill, the bill may require FWCC to adopt rules relating to the operation of airboats and equipment required on airboats.

C. DRAFTING ISSUES OR OTHER COMMENTS:

Although the bill addresses the suppression of noise from the operation of airboats emanating from the engine by requiring a specified muffler, the bill does not address nor provide any provisions or requirements that would address the suppression of airboat noise emanating from the airplane-type propeller mounted above the stern of the airboat. Neither does the bill define the terms "effectively" nor "adequately" as they related to requiring mufflers on airboats to effectively abate and adequately muffle the sound from the airboat engine.

FWCC staff has provided the following comments on and concerns with the bill.

The bill specifies muffler requirements for airboat engines. Such muffler equipment requirements are pre-empted by federal regulations as follows:

> "Unless permitted by the Secretary under section 4305 of this title, a State or political subdivision of a State may not establish, continue in effect, or enforce a law or regulation establishing a recreational vessel or associated equipment performance or other safety standard or imposing a requirement for associated equipment (except insofar as the State or political subdivision may, in the absence of the Secretary's disapproval, regulate the carrying or use of marine safety articles to meet uniquely hazardous conditions or circumstances within the State) that is not identical to a regulation prescribed under section 4302 of this title." (TITLE 46 – Shipping, Subtitle II – Vessels and Seamen – Part B – Inspection and Regulation of Vessels CHAPTER 43 – Recreational Vessels, Sec. 4306 – Federal Preemption)

The FWCC has requested an opinion from the U.S. Coast Guard as to whether it is exempt from this rule.

The bill requires an "airboat" cited for a muffler violation to show proof of muffler installation before it is further operated on state waters. The language should refer to "airboat operator" since an "airboat" cannot be cited for a violation. Further, the bill does not specify to whom this proof must be shown or the form this proof must take. This requirement creates a tracking obligation for FWCC and the necessity to develop an inspection plan to ensure compliance by those who have been cited for a muffler violation. The cost for such tracking/inspection plan is not known at this time.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES

On March 15, 2006, the Water and Natural Resources Committee adopted a strike-all amendment to HB 733. The strike-all amendment makes the following changes to the bill:

- Deletes the provision that airboats be operated in a reasonable and prudent manner.
- Revises the definition of "airboat" by removing the phrase "flat-bottomed."
- Adds the word "effectively" before the word "abate" regarding mufflers.
- Deletes the requirement that airboats be operated in compliance with numerous provisions of Chapter 327, F.S. on vessel safety.
- Deletes the provision that counties and municipalities may adopt ordinances for the operation and equipping of airboats as long as they are not in conflict with the provisions of Chapter 327, F.S., and do not discriminate against airboats.
- Changes the dimensions of the safety flag airboats must have.
- Adds newly created airboat requirements to the list of non-criminal infractions and requires mandatory completion of a boating safety course for multiple violations.

This analysis has been revised to reflect the strike-all amendment.

On April 4, 2006, the Agriculture and Environment Appropriations Committee adopted one amendment making the following changes:

- Prohibiting the use of flex pipe as the sole source of muffling.
- Redefining the penalties associated with violating the muffler specifications.
- Determining the height requirements of the flag which must be displayed.

This analysis has been revised to reflect this additional amendment.

CHAMBER ACTION

The Agriculture & Environment Appropriations Committee recommends the following:

Council/Committee Substitute

Remove the entire bill and insert:

A bill to be entitled

An act relating to airboats; amending s. 327.02, F.S.; defining the terms "airboat" and "muffler"; conforming terminology; creating s. 327.391, F.S.; providing for regulation of airboat operation and equipment; requiring described sound-muffling device; prohibiting the use of cutouts or flex pipe as the sole source of muffling; requiring display of described flag; providing penalties; providing exceptions; amending s. 327.73, F.S.; providing for penalties, court costs, and procedures for disposition of citations for specified violations; amending s. 327.731, F.S.; requiring certain violators to complete a described boating safety course and to file proof of completion with the Fish and Wildlife Conservation Commission prior to operating a vessel; providing for an exemption from the course; amending ss. 320.08, 328.17, 342.07, 616.242, 713.78, and 715.07, F.S.; revising cross-

references and terminology to conform to changes made by the act; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Present subsection (37) of section 327.02, Florida Statutes, is amended, subsections (1) through (22) are renumbered as subsections (2) through (23), respectively, subsections (23) through (38) are renumbered as subsections (25) through (40), respectively, and new subsections (1) and (24) are added to that section, to read:

327.02 Definitions of terms used in this chapter and in chapter 328.--As used in this chapter and in chapter 328, unless the context clearly requires a different meaning, the term:

(1) "Airboat" means a vessel, designed for use in shallow waters, powered by an internal combustion engine with an airplane-type propeller mounted above the stern used to push air across a set of rudders.

(24) "Muffler" means an automotive-style sound-suppression device or system designed to effectively abate the sound of exhaust gases emitted from an internal combustion engine and prevent excessive sound when installed on such engine.

(39) ~~(37)~~ "Vessel" is synonymous with boat as referenced in s. 1(b), Art. VII of the State Constitution and includes every description of watercraft, barge, and airboat ~~air boat~~, other than a seaplane on the water, used or capable of being used as a means of transportation on water.

Section 2. Section 327.391, Florida Statutes, is created to read:

327.391 Airboats regulated.--

(1) The exhaust of every internal combustion engine used on any airboat operated on the waters of this state shall be provided with an automotive-style factory muffler, underwater exhaust, or other manufactured device capable of adequately muffling the sound of the exhaust of the engine as described in s. 327.02(24). The use of cutouts or flex pipe as the sole source of muffling is prohibited, except as provided in subsection (4). Any person who violates this subsection commits a noncriminal infraction, punishable as provided in s. 327.73(1).

(2) An airboat operator cited for an infraction of subsection (1) shall not operate the airboat until a muffler as defined in s. 327.02 is installed. A second violation of subsection (1) shall be punishable by a fine of $250, a third violation shall be punishable by a fine of $500, and any subsequent violation shall be punishable by a fine of $500.

(3) An airboat may not operate on the waters of the state unless it is equipped with a mast or flagpole bearing a flag at a height of at least 10 feet above the lowest portion of the vessel. The flag must be square or rectangular, at least 10 inches by 12 inches in size, international orange in color, and displayed so that the visibility of the flag is not obscured in any direction. Any person who violates this subsection commits a noncriminal infraction, punishable as provided in s. 327.73(1).

(4) This section does not apply to a performer engaged in a professional exhibition or a person preparing to participate or participating in a regatta, race, marine parade, tournament, or exhibition held in compliance with s. 327.48.

Section 3. Paragraphs (v) and (w) are added to subsection (1) of section 327.73, Florida Statutes, to read:

327.73 Noncriminal infractions.--

(1) Violations of the following provisions of the vessel laws of this state are noncriminal infractions:

(v) Section 327.391(1), relating to requirement for an adequate muffler on an airboat.

(w) Section 327.391(3), relating to display of a flag on an airboat.

Any person cited for a violation of any such provision shall be deemed to be charged with a noncriminal infraction, shall be cited for such an infraction, and shall be cited to appear before the county court. The civil penalty for any such infraction is $50, except as otherwise provided in this section. Any person who fails to appear or otherwise properly respond to a uniform boating citation shall, in addition to the charge relating to the violation of the boating laws of this state, be charged with the offense of failing to respond to such citation and, upon conviction, be guilty of a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083. A written warning to this effect shall be provided at the time such uniform boating citation is issued.

Section 4. Subsection (1) of section 327.731, Florida Statutes, is amended to read:

327.731 Mandatory education for violators.--

(1) Every person convicted of a criminal violation of this chapter, every person convicted of a noncriminal infraction under this chapter if the infraction resulted in a reportable boating accident, and every person convicted of two noncriminal infractions as defined in s. 327.73(1)(h)-(k), (m), (o), (p), and (s)-(w) ~~(s)-(u)~~, said infractions occurring within a 12-month period, must:

(a) Enroll in, attend, and successfully complete, at his or her own expense, a boating safety course that meets minimum standards established by the commission by rule; however, the commission may provide by rule pursuant to chapter 120 for waivers of the attendance requirement for violators residing in areas where classroom presentation of the course is not available;

(b) File with the commission within 90 days proof of successful completion of the course;

(c) Refrain from operating a vessel until he or she has filed the proof of successful completion of the course with the commission.

Any person who has successfully completed an approved boating course shall be exempt from these provisions upon showing proof to the commission as specified in paragraph (b).

Section 5. Paragraphs (d) and (e) of subsection (5) of section 320.08, Florida Statutes, are amended to read:

320.08 License taxes.--Except as otherwise provided herein, there are hereby levied and imposed annual license taxes for the operation of motor vehicles, mopeds, motorized bicycles as defined in s. 316.003(2), and mobile homes, as defined in s. 320.01, which shall be paid to and collected by the department or its agent upon the registration or renewal of registration of the following:

(5) SEMITRAILERS, FEES ACCORDING TO GROSS VEHICLE WEIGHT; SCHOOL BUSES; SPECIAL PURPOSE VEHICLES.--

(d) A wrecker, as defined in s. 320.01(40), which is used to tow a vessel as defined in s. 327.02(39) ~~(36)~~, a disabled, abandoned, stolen-recovered, or impounded motor vehicle as defined in s. 320.01(38), or a replacement motor vehicle as defined in s. 320.01(39): $30 flat.

(e) A wrecker, as defined in s. 320.01(40), which is used to tow any motor vehicle, regardless of whether or not such motor vehicle is a disabled motor vehicle as defined in s. 320.01(38), a replacement motor vehicle as defined in s. 320.01(39), a vessel as defined in s. 327.02(39) ~~(36)~~, or any other cargo, as follows:

1. Gross vehicle weight of 10,000 pounds or more, but less than 15,000 pounds: $87 flat.

2. Gross vehicle weight of 15,000 pounds or more, but less than 20,000 pounds: $131 flat.

3. Gross vehicle weight of 20,000 pounds or more, but less than 26,000 pounds: $186 flat.

4. Gross vehicle weight of 26,000 pounds or more, but less than 35,000 pounds: $240 flat.

5. Gross vehicle weight of 35,000 pounds or more, but less than 44,000 pounds: $300 flat.

6. Gross vehicle weight of 44,000 pounds or more, but less than 55,000 pounds: $572 flat.

7. Gross vehicle weight of 55,000 pounds or more, but less than 62,000 pounds: $678 flat.

8. Gross vehicle weight of 62,000 pounds or more, but less than 72,000 pounds: $800 flat.

9. Gross vehicle weight of 72,000 pounds or more: $979 flat.

Section 6. Subsection (4) of section 328.17, Florida Statutes, is amended to read:

328.17 Nonjudicial sale of vessels.--

(4) A marina, as defined in s. 327.02(20) ~~(19)~~, shall have a possessory lien upon any vessel for storage fees, dockage fees, repairs, improvements, or other work-related storage charges, and for expenses necessary for preservation of the vessel or expenses reasonably incurred in the sale or other disposition of the vessel. The possessory lien shall attach as of the date the vessel is brought to the marina, or as of the date the vessel first occupies rental space at the marina facility. However, in the event of default, the marina must give notice to persons who hold perfected security interests against the vessel under the Uniform Commercial Code in which the owner is named as the debtor.

Section 7. Subsection (2) of section 342.07, Florida Statutes, is amended to read:

342.07 Recreational and commercial working waterfronts; legislative findings; definitions.--

(2) As used in this section, the term "recreational and commercial working waterfront" means a parcel or parcels of real property that provide access for water-dependent commercial activities or provide access for the public to the navigable waters of the state. Recreational and commercial working waterfronts require direct access to or a location on, over, or adjacent to a navigable body of water. The term includes water-dependent facilities that are open to the public and offer public access by vessels to the waters of the state or that are support facilities for recreational, commercial, research, or governmental vessels. These facilities include docks, wharfs, lifts, wet and dry marinas, boat ramps, boat hauling and repair facilities, commercial fishing facilities, boat construction facilities, and other support structures over the water. As used in this section, the term "vessel" has the same meaning as in s. 327.02(39) ~~(37)~~. Seaports are excluded from the definition.

Section 8. Paragraph (a) of subsection (10) of section 616.242, Florida Statutes, is amended to read:

616.242 Safety standards for amusement rides.--

(10) EXEMPTIONS.--

(a) This section does not apply to:

1. Permanent facilities that employ at least 1,000 full-time employees and that maintain full-time, in-house safety inspectors. Furthermore, the permanent facilities must file an affidavit of the annual inspection with the department, on a form prescribed by rule of the department. Additionally, the

Department of Agriculture and Consumer Services may consult annually with the permanent facilities regarding industry safety programs.

2. Any playground operated by a school, local government, or business licensed under chapter 509, if the playground is an incidental amenity and the operating entity is not primarily engaged in providing amusement, pleasure, thrills, or excitement.

3. Museums or other institutions principally devoted to the exhibition of products of agriculture, industry, education, science, religion, or the arts.

4. Conventions or trade shows for the sale or exhibit of amusement rides if there are a minimum of 15 amusement rides on display or exhibition, and if any operation of such amusement rides is limited to the registered attendees of the convention or trade show.

5. Skating rinks, arcades, lazer or paint ball war games, bowling alleys, miniature golf courses, mechanical bulls, inflatable rides, trampolines, ball crawls, exercise equipment, jet skis, paddle boats, airboats ~~air boats~~, helicopters, airplanes, parasails, hot air or helium balloons whether tethered or untethered, theatres, batting cages, stationary spring-mounted fixtures, rider-propelled merry-go-rounds, games, side shows, live animal rides, or live animal shows.

6. Go-karts operated in competitive sporting events if participation is not open to the public.

7. Nonmotorized playground equipment that is not required to have a manager.

8. Coin-actuated amusement rides designed to be operated by depositing coins, tokens, credit cards, debit cards, bills, or other cash money and which are not required to have a manager, and which have a capacity of six persons or less.

9. Facilities described in s. 549.09(1)(a) when such facilities are operating cars, trucks, or motorcycles only.

10. Battery-powered cars or other vehicles that are designed to be operated by children 7 years of age or under and that cannot exceed a speed of 4 miles per hour.

11. Mechanically driven vehicles that pull train cars, carts, wagons, or other similar vehicles, that are not confined to a metal track or confined to an area but are steered by an operator and do not exceed a speed of 4 miles per hour.

Section 9. Paragraph (b) of subsection (1) of section 713.78, Florida Statutes, is amended to read:

713.78 Liens for recovering, towing, or storing vehicles and vessels.--

(1) For the purposes of this section, the term:

(b) "Vessel" means every description of watercraft, barge, and airboat ~~air boat~~ used or capable of being used as a means of transportation on water, other than a seaplane or a "documented vessel" as defined in s. 327.02(9) ~~(8)~~.

Section 10. Paragraph (b) of subsection (1) of section 715.07, Florida Statutes, is amended to read:

715.07 Vehicles or vessels parked on private property; towing.--

(1) As used in this section, the term:

(b) "Vessel" means every description of watercraft, barge, and airboat used or capable of being used as a means of transportation on water, other than a seaplane or a "documented vessel" as defined in s. 327.02(9)~~(8)~~.

Section 11. This act shall take effect October 1, 2006.

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No.1

Bill No. **HB 733 CS**

COUNCIL/COMMITTEE ACTION

ADOPTED	__ (Y/N)
ADOPTED AS AMENDED	__ (Y/N)
ADOPTED W/O OBJECTION	__ (Y/N)
FAILED TO ADOPT	__ (Y/N)
WITHDRAWN	__ (Y/N)
OTHER	_____

Council/Committee hearing bill: State Resources Council

Representative Dean offered the following:

Amendment

Remove line(s) 60-68 and insert:

subsection (4). Any person who violates this subsection shall be guilty of a noncriminal infraction punishable as provided in s. 327.73(1). A second violation of this subsection within 12 months shall be punishable by a fine of $250, a third violation within 12 months shall be punishable by a find of $500, and any subsequent violation shall be punishable by a fine of $500.

(2) An airboat operator cited for an infraction of subsection (1) shall not operate the airboat until a muffler as defined in s. 372.02 is installed.

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. 2

Bill No. **HB 733 CS**

COUNCIL/COMMITTEE ACTION

ADOPTED	__ (Y/N)
ADOPTED AS AMENDED	__ (Y/N)
ADOPTED W/O OBJECTION	__ (Y/N)
FAILED TO ADOPT	__ (Y/N)
WITHDRAWN	__ (Y/N)
OTHER	_____

Council/Committee hearing bill: State Resources Council

Representative Dean offered the following:

Amendment (with title amendment)

Between line(s) 80 and 81 insert:

Section 3. Effective July 1, 2006, subsection (1) of section 327.60, Florida Statutes, is amended to read:

327.60 Local regulations; limitations.--

(1) The provisions of ss. 327.01, 327.02, 327.30-327.40, 327.44-327.50, 327.54, 327.56, 327.65, 328.40-328.48, 328.52-328.58, 328.62, and 328.64 shall govern the operation, equipment, and all other matters relating thereto whenever any vessel shall be operated upon the waterways or when any activity regulated hereby shall take place thereon. Nothing in these sections shall be construed to prevent the adoption of any ordinance or local law relating to operation and equipment of vessels, except that no such ordinance or local law may apply to the Florida Intracoastal Waterway and except that such ordinances or local laws shall be operative only when they are not in conflict with this chapter or any amendments thereto or regulations thereunder. Any ordinance or local law which has

been adopted pursuant to this section or to any other state law may not discriminate against personal watercraft as defined in s. 327.02. Effective July 1, 2006, any ordinance or local law adopted pursuant to this section or any other state law may not discriminate against airboats except by a super majority vote of the governing body enacting such ordinance.

========== T I T L E A M E N D M E N T ==========

Remove line 14 and insert:

providing exceptions; amending s. 327.60, F.S.; prohibiting an ordinance or local law from discriminating against airboats; amending s. 327.73, F.S.; providing

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. 3

Bill No. **HB 733 CS**

COUNCIL/COMMITTEE ACTION

ADOPTED	__ (Y/N)
ADOPTED AS AMENDED	__ (Y/N)
ADOPTED W/O OBJECTION	__ (Y/N)
FAILED TO ADOPT	__ (Y/N)
WITHDRAWN	__ (Y/N)
OTHER	_____

Council/Committee hearing bill: State Resources Council

Representative Dean offered the following:

Amendment (with title amendment)

Remove line 274 and insert:

Section 12. Except as otherwise expressly provided in this act and except for this section, which shall take effect upon becoming a law, this act shall take effect October 1, 2006.

========== T I T L E A M E N D M E N T ==========

Remove line 24 and insert:

the act; providing effective dates.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 1039 CS Miami-Dade County Lake Belt Area
SPONSOR(S): Garcia and others
TIED BILLS: **IDEN./SIM. BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) Water & Natural Resources Committee	8 Y, 0 N	Winker	Lotspeich
2) Finance & Tax Committee	8 Y, 0 N, w/CS	Monroe	Diez-Arguelles
3) Agriculture & Environment Appropriations Committee	10 Y, 0 N	Dixon	Dixon
4) State Resources Council		Winker KW	Hamby
5)			

SUMMARY ANALYSIS

The bill makes the following changes to the Miami-Dade County Lake Belt Area (Lake Belt Area):

- Changes the boundary of the Lake Belt Area by including certain sections of the area which were previously excluded.
- Increases the mitigation fee that is imposed for each ton of limerock and sand that is sold from the area from its current seven cents per ton to 12 cents per ton beginning January 1, 2007, 18 cents per ton beginning January 1, 2008, and 24 cents per ton beginning January 1, 2009.
- Revises the date from January 1, 2001, to January 1, 2010, on which the mitigation fee will be increased by 2.1 percentage points (plus a cost growth index) pursuant to current law.
- Adds funding sources (South Florida Water Management District and Miami-Dade County) that may be reimbursed with proceeds of the mitigation fee.

The bill will have a positive fiscal impact on the revenue deposited into the Lake Belt Mitigation Trust Fund from approximately $3 million in 2005 to $10 million in 2009, due to three annual increases in the mitigation fee.

The bill will take effect January 1, 2007.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Ensure lower taxes – The bill increases the mitigation fee for the mining industry in the Lake Belt Area.

B. EFFECT OF PROPOSED CHANGES:

Present Situation

The Miami-Dade Lake Belt Area comprises 77.5 square miles of environmentally sensitive land located in the western edge of the Miami-Dade County urban area. This area consists of wetlands and lakes which act potentially as a buffer between the Everglades and the encroachment of urban development. The area is also used for mining limestone and sand, with rock mined from the area supplying about one-half of all the limestone used in Florida. The Northwest Wellfield, which is located at the eastern edge of the area, is the largest drinking water wellfield in the state and supplies about 40 percent of the potable drinking water for Miami-Dade County. About 50% of the land within the Lake Area is owned by the mining industry, 25% is owned by government agencies, and 25% is owned by non-mining private owners.

Section 373.4139, F.S., established the Lake Belt Committee for the purpose of developing a long-term plan for the Lake Belt Area. In February 1997, and February 2001, this committee submitted reports to the Legislature with findings, recommendations, and a plan for the Lake Belt Area.

Based on these findings and recommendations, s. 373.4149, F.S., was enacted which adopted the plan intended to enhance the water supply for Miami-Dade County and the Everglades, including the development of wellfield protection measures, while maximizing the efficient recovery of limestone, promoting the social and economic welfare of the community, and protecting the environment.

A major recommendation from the Lake Belt Committee was that in order to offset the impacts of rock mining in the Lake Belt Area, this activity needed to be offset by the implementation of a mitigation plan.

Section 373.41492, F.S., enacted the mitigation plan by requiring the assessment of a per-ton mitigation fee assessed on limestone and sand sold from the Lake Belt Area. Fees collected from such sales are to be used for acquiring environmentally sensitive lands and for restoration, maintenance, and other environmental purposes.

Section 373.41492(2), F.S., provides that, effective October 1, 1999, 5 cents for each ton of limerock and sand sold from within the Lake Belt Area will be assessed. The limerock or sand miner who sells the limerock or sand is required to collect the mitigation fee and send the fee to the Department of Revenue (DOR). Proceeds of the fee, less administrative costs for the DOR, are then transferred to the South Florida Water Management District and deposited into the Lake Belt Mitigation Trust Fund created under s. 373.41495, F.S.

Section 373.41492(5), F.S., provides that effective January 1, 2001, and each January 1 thereafter, the per-ton mitigation fee must be increased by 2.1 percentage points, plus a cost growth index. Based upon this rate schedule, the mitigation fee for 2005 was 7 cents per ton.

All proceeds from the mitigation fee are to be used for mitigation activities that offset the loss of the value and functions of wetlands as a result of mining activities in the Lake Belt Area. Mitigation activities include the following:

- The purchase, enhancement, restoration, and management of wetlands and uplands.
- The purchase of mitigation credit from a permitted mitigation bank pursuant to s. 373.4136, F.S.
- Structural modifications to the existing drainage system to enhance the hydrology of the Lake Belt Area.
- Reimbursement to other funding sources, including the Save Our Rivers Land Acquisition Program and the Internal Improvement Trust Fund, for the purchase of lands acquired in areas appropriate for mitigation due to rock mining and to reimburse governmental agencies that exchanged land for mitigation due to rock mining.

Section 373.41492(6)(b), F.S., creates a Lake Belt Area mitigation fee interagency committee consisting of representatives from the Miami-Dade County Department of Environmental Resource Management, the Department of Environmental Protection, the South Florida Water Management District, and the Fish and Wildlife Conservation Commission. A representative of the limerock mining industry is a non-voting member of the committee. The interagency committee is required to submit a report to the Legislature with recommendations for any needed adjustments to the mitigation fee (s. 373.41492(8), F.S.).

Effect of Proposed Changes

The bill makes the following changes to the Miami-Dade County Lake Belt Area (Lake Belt Area):

- Changes the boundary of the Lake Belt Area by including certain sections of the area which were previously excluded.
- Increases the mitigation fee that is imposed for each ton of limerock and sand that is sold from the area from its current seven cents per ton to 12 cents per ton beginning January 1, 2007, 18 cents per ton beginning January 1, 2008, and 24 cents per ton beginning January 1, 2009.
- Revises the date from January 1, 2001 to January 1, 2010, on which the mitigation fee will be increased by 2.1 percentage points (plus a cost growth index) pursuant to current law.
- Adds funding sources (South Florida Water Management District and Miami-Dade County) that may be reimbursed with proceeds from the mitigation fee.

The bill will take effect January 1, 2007.

C. SECTION DIRECTORY:

Section 1: Amends s. 373.4149, F.S., changes the boundaries of the Lake Belt Area.

Section 2: Amends s. 373.41492, F.S., increases the mitigation fee for each ton of limerock and sand sold in the Lake Belt Area.

Section 3: The bill takes effect on January 1, 2007.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

According to the South Florida Water Management District, approximately $3 million in fee revenues from about 43 million tons of limerock and sand mined were deposited into the Lake Belt Mitigation Trust Fund in 2005.

Under the new mitigation fee rates provided for in the bill, an estimated $5.2 million in fee revenues would be deposited in the trust fund at the 12 cents level (effective Janaury 1, 2007); $7.8 million effective January 1, 2008, and $10.3 million effective January 1, 2009. Effective January 1, 2010 and each January 1 thereafter, the mitigation fee will increase by 2.1%, plus a cost growth index which will further increase the fee revenues deposited in the trust fund.

These increases in the mitigation fees should increase revenues to local governments for mitigation activities expenses.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The increased mitigation fees will have a negative fiscal impact upon the mining industry in the Lake Belt Area.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

The bill does not require counties or municipalities to spend funds or to take an action requiring the expenditure of funds. The bill does not reduce the percentage of a state tax shared with counties or municipalities. The bill does not reduce the authority that counties and municipalities have to raise revenue.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES

On March 31, 2006, the Committee on Finance and Tax adopted two amendments to this bill. The first amendment changed the dates of adjustments to the mitigation rate from October 1 to January 1. The second amendment changed the effective date from October 1, 2006 to January 1, 2007. These changes were suggested by the Department of Revenue due to technical difficulties with the October 1 date.[1]

[1] In their analysis of this bill, the Department of Revenue wrote: "The . . . requirement to calculate the adjustments to the mitigation fee based upon specific indexes from the United States Department of Labor for the 12 month period ending September 30 of each year and an adjusted mitigation fee effective October 1 of the same year can not be done. Indexes such as the Consumer Price Index are published as much as three or more months following the reported month. Index information for September of a given year is not available until sometime in December of that year, at the earliest." The Department went on to recommend that the rate changes be made effective on January 1, three months later than the bill had the rate changes occurring. For similar reasons, the Department also asked for the bills effective date to be moved to January 1, 2007

CHAMBER ACTION

The Finance & Tax Committee recommends the following:

Council/Committee Substitute

Remove the entire bill and insert:

A bill to be entitled

An act relating to the Miami-Dade County Lake Belt Area; amending s. 373.4149, F.S.; revising the geographic boundaries of the Miami-Dade County Lake Belt Area; amending s. 373.41492, F.S.; revising the geographic boundaries for mining areas subject to mitigation fees under the Miami-Dade County Lake Belt Mitigation Plan; providing for mitigation fee increases; authorizing proceeds of mitigation fees to be allocated to the South Florida Water Management District and Miami-Dade County for specific purposes; revising the reporting requirements for the interagency committee; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Subsection (3) of section 373.4149, Florida Statutes, is amended to read:

373.4149 Miami-Dade County Lake Belt Plan.--

(3) The Miami-Dade County Lake Belt Area is that area bounded by the Ronald Reagan Turnpike to the east, the Miami-Dade-Broward County line to the north, Krome Avenue to the west and Tamiami Trail to the south together with the land south of Tamiami Trail in sections 5, 6, 7, 8, 17, and 18, Township 54 South, Range 39 East, sections 24, 25, and 36, Township 54 South, Range 38 East, less those portions of section 3, Township 52 South, Range 39 East south of Krome Avenue and west of U.S. Highway 27, ~~section 10, except the west one-half, section 11, except the northeast one-quarter and the east one-half of the northwest one-quarter, and tracts 38 through 41, and tracts 49 through 64 inclusive, section 13, except tracts 17 through 35 and tracts 46 through 48, of Florida Fruit Lands Company Subdivision No. 1 according to the plat thereof as recorded in plat book 2, page 17, public records of Miami-Dade County, and section 14, except the west three quarters, Township 52 South, Range 39 East, lying north of the Miami Canal,~~ and less sections 35 and 36 and the east one-half of sections 24 and 25, Township 53 South, Range 39 East and Government Lots 1 and 2, lying between Townships 53 and 54 South, Range 39 East and those portions of sections 1 and 2, Township 54 South, Range 39 East, lying north of Tamiami Trail.

Section 2. Subsections (2), (5), and (7), paragraph (a) of subsection (6), and paragraph (b) of subsection (9) of section 373.41492, Florida Statutes, are amended to read:

373.41492 Miami-Dade County Lake Belt Mitigation Plan; mitigation for mining activities within the Miami-Dade County Lake Belt.--

(2) To provide for the mitigation of wetland resources lost to mining activities within the Miami-Dade County Lake Belt Plan, effective October 1, 1999, a mitigation fee is imposed on each ton of limerock and sand extracted by any person who engages in the business of extracting limerock or sand from within the Miami-Dade County Lake Belt Area ~~and sections 10, 11, 13, 14, Township 52 South, Range 39 East,~~ and the east one-half of sections 24 and~~,~~ 25 and all of sections~~,~~ 35~~,~~ and 36, Township 53 South, Range 39 East. The mitigation fee is imposed ~~at the rate of 5 cents~~ for each ton of limerock and sand sold from within the properties where the fee applies in raw, processed, or manufactured form, including, but not limited to, sized aggregate, asphalt, cement, concrete, and other limerock and concrete products. The mitigation fee imposed by this subsection for each ton of limerock and sand sold shall be 12 cents per ton beginning January 1, 2007, 18 cents per ton beginning January 1, 2008, and 24 cents per ton beginning January 1, 2009. Any limerock or sand that is used within the mine from which the limerock or sand is extracted is exempt from the fee. The amount of the mitigation fee imposed under this section must be stated separately on the invoice provided to the purchaser of the limerock or sand product from the limerock or sand miner, or its subsidiary or affiliate, for which the mitigation fee applies. The limerock or sand miner, or its subsidiary or affiliate, who sells the limerock or sand product shall collect the mitigation fee and forward the proceeds of the fee to the Department of Revenue on or before the 20th day of the month following the calendar month in which the sale occurs.

(5) Beginning January 1, 2010 ~~2001~~, and each January 1 thereafter, the per-ton mitigation fee shall be increased by 2.1 percentage points, plus a cost growth index. The cost growth index shall be the percentage change in the weighted average of the Employment Cost Index for All Civilian Workers (ecu 10001I), issued by the United States Department of Labor for the most recent 12-month period ending on September 30, and the percentage change in the Producer Price Index for All Commodities (WPU 00000000), issued by the United States Department of Labor for the most recent 12-month period ending on September 30, compared to the weighted average of these indices for the previous year. The weighted average shall be calculated as 0.6 times the percentage change in the Employment Cost Index for All Civilian Workers (ecu 10001I), plus 0.4 times the percentage change in the Producer Price Index for All Commodities (WPU 00000000). If either index is discontinued, it shall be replaced by its successor index, as identified by the United States Department of Labor.

(6)(a) The proceeds of the mitigation fee must be used to conduct mitigation activities that are appropriate to offset the loss of the value and functions of wetlands as a result of mining activities and must be used in a manner consistent with the recommendations contained in the reports submitted to the Legislature by the Miami-Dade County Lake Belt Plan Implementation Committee and adopted under s. 373.4149. Such mitigation may include the purchase, enhancement, restoration, and management of wetlands and uplands, the purchase of mitigation credit from a permitted mitigation bank, and any

structural modifications to the existing drainage system to enhance the hydrology of the Miami-Dade County Lake Belt Area. Funds may also be used to reimburse other funding sources, including the Save Our Rivers Land Acquisition Program, ~~and~~ the Internal Improvement Trust Fund, the South Florida Water Management District, and Miami-Dade County, for the purchase of lands that were acquired in areas appropriate for mitigation due to rock mining and to reimburse governmental agencies that exchanged land under s. 373.4149 for mitigation due to rock mining ~~rockmining~~.

(7) Payment of the fee imposed by this section satisfies the mitigation requirements imposed under ss. 373.403-373.439 and any applicable county ordinance for loss of the value and functions from mining of the wetlands identified as rock mining ~~rockmining~~ supported and allowable areas of the Miami-Dade County Lake Plan adopted by s. 373.4149(1). In addition, it is the intent of the Legislature that the payment of the mitigation fee imposed by this section satisfy all federal mitigation requirements for the wetlands mined.

(9)

(b) No sooner than January 31, 2010, and no more frequently than every 5 ~~10~~ years thereafter, the interagency committee shall submit to the Legislature a report recommending any needed adjustments to the mitigation fee to ensure that the revenue generated reflects the actual costs of the mitigation.

Section 3. This act shall take effect January 1, 2007.

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. 1

Bill No. **HB 1039 CS**

COUNCIL/COMMITTEE ACTION

ADOPTED	__ (Y/N)
ADOPTED AS AMENDED	__ (Y/N)
ADOPTED W/O OBJECTION	__ (Y/N)
FAILED TO ADOPT	__ (Y/N)
WITHDRAWN	__ (Y/N)
OTHER	_____

Council/Committee hearing bill: State Resources Council

Representative Machek offered the following:

Amendment (with title amendment)

Remove everything after the enacting clause and insert:

Section 1. Subsection (3) of section 373.4149, Florida Statutes, is amended to read:

373.4149 Miami-Dade County Lake Belt Plan.--

(3) The Miami-Dade County Lake Belt Area is that area bounded by the Ronald Reagan Turnpike to the east, the Miami-Dade-Broward County line to the north, Krome Avenue to the west and Tamiami Trail to the south together with the land south of Tamiami Trail in sections 5, 6, 7, 8, 17, and 18, Township 54 South, Range 39 East, sections 24, 25, and 36, Township 54 South, Range 38 East, less those portions of section 3, Township 52 South, Range 39 East south of Krome Avenue and west of U.S. Highway 27, ~~section 10, except the west one-half, section 11, except the northeast one-quarter and the east one-half of the northwest one-quarter, and tracts 38 through 41, and tracts 49 through 64 inclusive, section 13, except tracts 17 through 35 and tracts 46 through 48, of Florida Fruit Lands Company Subdivision No. 1 according to the plat thereof as recorded in~~

~~plat book 2, page 17, public records of Miami-Dade County, and section 14, except the west three quarters, Township 52 South, Range 39 East, lying north of the Miami Canal,~~ and less sections 35 and 36 and the east one-half of sections 24 and 25, Township 53 South, Range 39 East and Government Lots 1 and 2, lying between Townships 53 and 54 South, Range 39 East and those portions of sections 1 and 2, Township 54 South, Range 39 East, lying north of Tamiami Trail.

Section 2. Subsections (2), (5), and (7), paragraph (a) of subsection (6), and paragraph (b) of subsection (9) of section 373.41492, Florida Statutes, are amended to read:

373.41492 Miami-Dade County Lake Belt Mitigation Plan; mitigation for mining activities within the Miami-Dade County Lake Belt. --

(2) To provide for the mitigation of wetland resources lost to mining activities within the Miami-Dade County Lake Belt Plan, effective October 1, 1999, a mitigation fee is imposed on each ton of limerock and sand extracted by any person who engages in the business of extracting limerock or sand from within the Miami-Dade County Lake Belt Area ~~and sections 10, 11, 13, 14, Township 52 South, Range 39 East,~~ and the east one-half of sections 24 and~~,~~ 25 and all of sections~~,~~ 35~~,~~ and 36, Township 53 South, Range 39 East. The mitigation fee is imposed ~~at the rate of 5 cents~~ for each ton of limerock and sand sold from within the properties where the fee applies in raw, processed, or manufactured form, including, but not limited to, sized aggregate, asphalt, cement, concrete, and other limerock and concrete products. The mitigation fee imposed by this subsection for each ton of limerock and sand sold shall be 12 cents per ton beginning January 1, 2007, 18 cents per ton beginning January 1, 2008, and 24 cents per ton beginning

January 1, 2009. To upgrade a water treatment plant that treats water coming from the Northwest Wellfield in Miami-Dade County, Florida, a water treatment plant upgrade fee is imposed within the same Lake Belt Area subject to the mitigation fee and upon the same kind of mined limerock and sand as the mitigation fee. The water treatment plant upgrade fee imposed by this subsection for each ton of limerock and sand sold shall be fifteen cents per ton beginning on January 1, 2007, and the collection of this fee shall cease once the total amount of proceeds, less administrative costs, collected for this fee reaches one hundred twelve million, five hundred thousand dollars or the amount of the actual monies necessary to design and construct the treatment plant upgrade, whichever is less. Any limerock or sand that is used within the mine from which the limerock or sand is extracted is exempt from the fees. The amount of the mitigation fee and the water treatment plant upgrade fee imposed under this section must be stated separately on the invoice provided to the purchaser of the limerock or sand product from the limerock or sand miner, or its subsidiary or affiliate, for which the ~~mitigation~~ fee ~~applies~~ or fees apply. The limerock or sand miner, or its subsidiary or affiliate, who sells the limerock or sand product shall collect the mitigation fee and the water treatment plant upgrade fee and forward the proceeds of the fees to the Department of Revenue on or before the 20th day of the month following the calendar month in which the sale occurs.

(3) The mitigation fee and treatment plant upgrade fee imposed by this section must be reported to the Department of Revenue. Payment of the mitigation and treatment plant upgrade fees must be accompanied by a form prescribed by the Department of Revenue. The proceeds of the mitigation fee, less

administrative costs, must be transferred by the Department of Revenue to the South Florida Water Management District and deposited into the Lake Belt Mitigation Trust Fund. The proceeds of the treatment plant upgrade fee, less administrative costs, must be transferred by the Department of Revenue to a trust fund established by Miami-Dade County, Florida for the sole purpose authorized by paragraph (6)(a) of this section. As used in this section, the term "proceeds of the fee" means all funds collected and received by the Department of Revenue under this section, including interest and penalties on delinquent ~~mitigation~~ fees. The amount deducted for administrative costs may not exceed 3 percent of the total revenues collected under this section and may equal only those administrative costs reasonably attributable to the ~~mitigation~~ fees.

(4)(a) The Department of Revenue shall administer, collect, and enforce the mitigation and treatment plant upgrade fees authorized under this section in accordance with the procedures used to administer, collect, and enforce the general sales tax imposed under chapter 212. The provisions of chapter 212 with respect to the authority of the Department of Revenue to audit and make assessments, the keeping of books and records, and the interest and penalties imposed on delinquent fees apply to this section. The fees may not be included in computing estimated taxes under s. 212.11, and the dealer's credit for collecting taxes or fees provided for in s. 212.12 does not apply to the fees imposed by this section.

(b) In administering this section, the Department of Revenue may employ persons and incur expenses for which funds are appropriated by the Legislature. The Department of Revenue shall adopt rules and prescribe and publish forms necessary to

administer this section. The Department of Revenue shall establish audit procedures and may assess delinquent fees.

(5) Beginning January 1, 2010 ~~January 1, 2001~~, and each January 1 thereafter, the per-ton mitigation fee only shall be increased by 2.1 percentage points, plus a cost growth index. The cost growth index shall be the percentage change in the weighted average of the Employment Cost Index for All Civilian Workers (ecu 10001I), issued by the United States Department of Labor for the most recent 12-month period ending on September 30, and the percentage change in the Producer Price Index for All Commodities (WPU 00000000), issued by the United States Department of Labor for the most recent 12-month period ending on September 30, compared to the weighted average of these indices for the previous year. The weighted average shall be calculated as 0.6 times the percentage change in the Employment Cost Index for All Civilian Workers (ecu 10001I), plus 0.4 times the percentage change in the Producer Price Index for All Commodities (WPU 00000000). If either index is discontinued, it shall be replaced by its successor index, as identified by the United States Department of Labor.

(6)(a) The proceeds of the mitigation fee must be used to conduct mitigation activities that are appropriate to offset the loss of the value and functions of wetlands as a result of mining activities and must be used in a manner consistent with the recommendations contained in the reports submitted to the Legislature by the Miami-Dade County Lake Belt Plan Implementation Committee and adopted under s. 373.4149. Such mitigation may include the purchase, enhancement, restoration, and management of wetlands and uplands, the purchase of mitigation credit from a permitted mitigation bank, and any structural modifications to the existing drainage system to

enhance the hydrology of the Miami-Dade County Lake Belt Area. Funds may also be used to reimburse other funding sources, including the Save Our Rivers Land Acquisition Program, ~~and~~ the Internal Improvement Trust Fund, the South Florida Water Management District, and Miami-Dade County, for the purchase of lands that were acquired in areas appropriate for mitigation due to rock mining and to reimburse governmental agencies that exchanged land under s. 373.4149 for mitigation due to rock mining ~~rockmining~~. The proceeds of the water treatment plant upgrade fee shall be used solely to upgrade a water treatment plant that treats water coming from the Northwest Wellfield in Miami-Dade County, Florida. As used in this section, the terms "upgrade a water treatment plant" or "treatment plant upgrade" means those works necessary to treat or filter a surface water source and/or supply.

(b) Expenditures of the mitigation fee must be approved by an interagency committee consisting of representatives from each of the following: the Miami-Dade County Department of Environmental Resource Management, the Department of Environmental Protection, the South Florida Water Management District, and the Fish and Wildlife Conservation Commission. In addition, the limerock mining industry shall select a representative to serve as a nonvoting member of the interagency committee. At the discretion of the committee, additional members may be added to represent federal regulatory, environmental, and fish and wildlife agencies.

(7) Payment of the mitigation fee imposed by this section satisfies the mitigation requirements imposed under ss. 373.403-373.439 and any applicable county ordinance for loss of the value and functions from mining of the wetlands identified as rock mining ~~rockmining~~ supported and allowable areas of the

Miami-Dade County Lake Plan adopted by s. 373.4149(1). In addition, it is the intent of the Legislature that the payment of the mitigation fee imposed by this section satisfy all federal mitigation requirements for the wetlands mined.

(9)

(b) No sooner than January 31, 2010, and no more frequently than every 5 ~~10~~ years thereafter, the interagency committee shall submit to the Legislature a report recommending any needed adjustments to the mitigation fee to ensure that the revenue generated reflects the actual costs of the mitigation.

========== T I T L E A M E N D M E N T ==========

Remove the entire title and insert:

An act relating to the Miami-Dade County Lake Belt Area; amending s. 373.4149, F.S.; revising the geographic boundaries of the Miami-Dade County Lake Belt Area; amending s. 373.41492, F.S.; revising the geographic boundaries for mining areas subject to mitigation fees under the Miami-Dade County Lake Belt Mitigation Plan; providing for mitigation fee increases and imposing a water treatment plant upgrade fee; authorizing proceeds of mitigation fees to be allocated to the South Florida Water Management District and Miami-Dade County for specific purposes; authorizing the proceeds of the water treatment plant upgrade fee to be used for updating a water treatment plant near the Lake Belt Area; revising the reporting requirements for the interagency committee; providing an effective date.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 1347 CS Land Management
SPONSOR(S): Williams
TIED BILLS: **IDEN./SIM. BILLS:** SB 2102

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) Environmental Regulation Committee	7 Y, 0 N, w/CS	Perkins	Kliner
2) Agriculture & Environment Appropriations Committee	10 Y, 0 N, w/CS	Dixon	Dixon
3) State Resources Council		Perkins RP	Hamby JRC
4)			
5)			

SUMMARY ANALYSIS

The bill, in part:

- Creates the "Babcock Ranch Preserve Act" and establishes the Babcock Ranch Preserve to protect and preserve the environmental, agricultural, scientific, scenic, geologic, watershed, fish, wildlife, historic, cultural, and recreational values of the Babcock Ranch Preserve and to provide for the multiple use and sustained yield of the renewable surface resources within the Babcock Ranch Preserve.
- Authorizes the creation of a not-for-profit corporation known as "Babcock Ranch, Inc." which shall assume management of the Babcock Ranch Preserve with input from the Fish and Wildlife Conservation Commission and the Department of Agriculture and Consumer Services. The Babcock Ranch, Inc., shall manage the land resources including but not limited to the following:
    - Administration and operation of the Babcock Ranch Preserve as a working ranch[1]
    - Preservation and development of the land and renewable surface resources of the Babcock Ranch Preserve
    - Interpretation of the Babcock Ranch Preserve and its history on behalf of the public
    - Management, public use, and occupancy of facilities and lands within the Babcock Ranch Preserve
    - Maintenance, rehabilitation, repair, and improvement within the Babcock Ranch Preserve
    - Develop programs and activities relating to the management of the preserve as a working ranch

  Upon a determination by the Board of Trustees of the Internal Improvement Trust Fund, no later than 60 days before the termination of the preliminary management agreement, the bill stipulates that Babcock Ranch, Inc., shall assume all authority to manage the Babcock Ranch Preserve. The preliminary management agreement term is for a five-year period and provides for an automatic extension of an additional five-year period. The bill provides that upon the dissolution of Babcock Ranch, Inc., for any reason, the management responsibilities shall revert to the Fish and Wildlife Conservation Commission and the Department of Agriculture and Consumer Services.
- Provides that the Babcock Ranch, Inc., shall be governed by a nine-member governing board whose members will be appointed no later than 90 days after the initial acquisition of the "Babcock Crescent B Ranch" (Babcock Ranch) by the state.
- Requires Babcock Ranch, Inc., to establish various business operation requirements relating to finances, reports, legal, and development of comprehensive business plan.

The bill provides an appropriation of $310 million from the Land Acquisition Trust Fund to the Department of Environmental Protection for the purchase of the Babcock Ranch contingent upon, but not limited to, the continuation of silviculture operations, tenant farming and hunting policies currently in practice on the ranch. The bill also provides for a distribution schedule of the funds.

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[1] Working ranch" to mean those activities necessary to accomplish the goals of multiple use and sustained yield of the renewable surface resources, and includes but is not limited to silvicultural operations regardless of location or species, pasture management, livestock management, native plant nursery operations, apiary operations, sod farming, eco-tourism, tenant farming, hunting leases, and horticultural debris disposal.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Provide Limited Government: The bill creates a not-for-profit corporation known as "Babcock Ranch, Inc.," to ultimately manage the Babcock Ranch Preserve. The bill provides for consulting duties by the Fish and Wildlife Conservation Commission and the Department of Agriculture and Consumer Services.

Safeguard Individual Liberty: The bill creates a not-for-profit corporation known as "Babcock Ranch, Inc.," to ultimately manage the Babcock Ranch Preserve. The bill preserves the working ranch currently in operation at the Babcock Ranch.

B. EFFECT OF PROPOSED CHANGES:

Babcock Ranch

The Babcock Ranch covers an area of 143 square miles and is comprised of 81,499 acres in Charlotte County and 9,862 acres in Lee County. The Babcock Ranch is a Florida Forever Group A project which was added to the acquisition list in 2001. The Babcock Ranch is home to the Florida panther, Florida black bear and other threatened and endangered wildlife. The ranch includes large, well managed areas of pine and scrubby flatwoods along with a highly functional freshwater swamp system known as Telegraph Swamp. The acquisition of the Babcock Ranch would complete a massive natural land corridor from Lake Okeechobee to the Gulf of Mexico.

Currently, the Babcock Ranch includes tenant farms for watermelon and tomatoes on about 4,000 acres, 1,000 acres of sod farming, 2,000 acres of permitted mining activities, and 20,000 acres of improved pasture land. Public access to 6,000 acres covering six miles is provided through guided eco-tours by Babcock Wilderness Adventures, Inc. Hunting activities are authorized on 61,000 acres through 22 private annual hunting leases covering an average of 5,000 acres per lease. Prescribed burning activities are conducted on approximately 25,000 acres and 72,000 acres are in native vegetation and are grazed rotationally. As it relates to hunting leases, tenant farming and cypress tree harvesting presently performed on the Babcock Ranch, the property owner representative reported that these activities generated revenue of approximately $2.2 million last year.[2]

On November 22, 2005, the Board of Trustees of the Internal Improvement Trust Fund approved the Agreement for Sale and Purchase for the state to acquire approximately 74,000 acres of the Babcock Ranch for a total price of $350 million. As part of the acquisition agreement, Babcock Ranch Management, LLC, has agreed to manage all land to be purchased by the State in accordance with the state's land management plan that will be developed after the initial acquisition in July 2006. The preliminary management agreement will preserve and sustain the quality of the property as conservation land, as a working ranch, and silviculture operation which shall include in part:

- Cattle ranching, timber management and harvesting, Florida native plant nursery, apiary (bee) operations, sod farm, or any form of agriculture in present use on the property
- Eco-tourism, natural resource based recreation such as hiking, hunting, and fishing
- Horticultural debris disposal business
- Tenant farming

[2] Arnie Sarlo, Vice President/General manager, Babcock Florida Company

The preliminary management agreement provides that the manager of the ranch is entitled to all revenues from operations from the ranch. During the first five-year management period, the manager must reinvest not less than 50 percent of all net revenues, from which employee salaries and benefits may not be deducted, in the management, maintenance and improvement of the property. If the preliminary management agreement is extended for a second five-year period, the reinvestment percentage increases by 10 percent each year until it reaches 90 percent. This preliminary management agreement will be for a five-year period and provides for an automatic extension of an additional five year period.

Due to the complexity of balancing a working ranch, outdoor recreation and wildlife management, the state is proposing that a not-for-profit entity be established to manage the ranch. Pending approval and creation by the Legislature, the non-profit entity would have a board of directors with a diverse range of expertise in land management, ranch operations, wildlife management and outdoor recreation. Following the fulfillment of Babcock Ranch Management, LLC, obligations, the not-for-profit entity would assume full responsibility for managing the land and ranch.

Effect of Proposed Change

The bill creates section 259.106, F.S., to be cited as the "Babcock Ranch Preserve Act." The bill provides that the Babcock Ranch must be protected for current and future generations by continued operation as a working ranch under a unique management regime that protects the land and resource values of the property and surrounding ecosystems while allowing the ranch to become financially self-sustaining.

Babcock Ranch Preserve

The bill provides definitions relating to the act and upon the acquisition of the Babcock Ranch by the Board of Trustees of the Internal Improvement Trust Fund, there is established the "Babcock Ranch Preserve." The Babcock Ranch acquisition is a conservation acquisition with a goal of sustaining the ecological and economic integrity of the property being acquired while allowing the business of the ranch to operate and prosper. The Babcock Ranch Preserve is established to protect and preserve the environmental, agricultural, scientific, scenic, geologic, watershed, fish, wildlife, historic, cultural, and recreational values of the preserve and to provide for the multiple use and sustained yield of the renewable surface resources within the preserve. The bill provides that except for the enumerated duties of the Commissioner of Agriculture and the enumerated duties of the Fish and Wildlife Conservation Commission provided in s. 9, Art. IV, of the State Constitution, the Babcock Ranch Preserve shall be managed by Babcock Ranch, Inc.

Babcock Ranch, Inc.

The bill states that the management regime will best be provided through the creation of a non-profit, public-private entity that is capable of developing and implementing environmentally sensitive, cost effective, and creative methods to manage and operate a working ranch. The bill creates a not-for-profit corporation known as "Babcock Ranch, Inc.," that will be registered, incorporated, organized, and operated in this state and not be a unit or entity of state government. Babcock Ranch, Inc., is organized on a nonstock basis. The purpose of Babcock Ranch, Inc., is to provide the following:

- Management and administrative services for the Babcock Ranch Preserve
- Establish and implement management policies
- Cooperate with state agencies to further the purposes for which the Babcock Ranch Preserve was created
- Establish the administrative and accounting procedures for the operation of the Babcock Ranch, Inc.

The bill provides that the Babcock Ranch, Inc., is subject to the provisions of chapter 119, F.S., relating to public records and those provisions of chapter 286, F.S., relating to public meetings and records for any meetings of Babcock Ranch, Inc. The dissolvement of Babcock Ranch, Inc., may only occur by an act of the Legislature.

The bill authorizes Babcock Ranch, Inc., the ability to appoint and utilize advisory committees to assist in the particular function for which the committee was established. The bill provides that Babcock Ranch, Inc., and its officers and employees shall participate in the management of the Babcock Ranch Preserve in an "advisory capacity only" until the management agreement executed by Babcock Ranch Management, LLC, and the Board of Trustees of the Internal Improvement Trust Fund, Fish and Wildlife Conservation Commission, and Department of Agriculture and Consumer Services, and Lee County is terminated or expires. The bill requires on or before the date on which title to the Babcock Ranch is vested in the state, Babcock Ranch Management, LLC, is to provide Fish and Wildlife Conservation Commission and the Department of Agriculture and Consumer Services their management plan and business plan in place for the operation of the ranch as of November 22, 2005, the date on which the Board of Trustees of the Internal Improvement Trust Fund approved the acquisition.

Upon a determination by the Board of Trustees of the Internal Improvement Trust Fund, no later than 60 days before the termination of the preliminary management agreement, the bill stipulates that Babcock Ranch, Inc., shall assume all authority to manage the Babcock Ranch Preserve as a working ranch.

The bill provides that Babcock Ranch, Inc., shall assume management of the Babcock Ranch Preserve with input from Fish and Wildlife Conservation Commission and the Department of Agriculture and Consumer Services. The Babcock Ranch, Inc., shall manage the land resources including but not limited to the following:

- Administration and operation of the Babcock Ranch Preserve as a working ranch
- Preservation and development of the land and renewable surface resources of the Babcock Ranch Preserve
- Interpretation of the Babcock Ranch Preserve and its history on behalf of the public
- Management, public use, and occupancy of facilities and lands within the Babcock Ranch Preserve
- Maintenance, rehabilitation, repair, and improvement within the Babcock Ranch Preserve
- Develop programs and activities relating to the management of the preserve as a working ranch

The bill requires Babcock Ranch, Inc., to develop reasonable procedures for entering into lease agreements and other agreements for the use and occupancy of the facilities of the Babcock Ranch Preserve and their negotiation thereof. State laws and rules governing the procurement of commodities and services by state agencies shall apply to Babcock Ranch, Inc. The bill requires the Babcock Ranch, Inc., to provide equal employment opportunities for all persons regardless of race, color, religion, gender, national origin, age, handicap, or marital status.

The bill provides that Babcock Ranch, Inc., may not:

- Purchase, take, receive, lease, take by gift, devise, or bequest, or otherwise acquire, own, hold, improve, use, or otherwise deal in and with real property, or any interest therein, wherever situated, except as otherwise provided in the act, in developing and implementing the working ranch's comprehensive business plan.
- Sell, convey, mortgage, pledge, lease, exchange, transfer, or dispose of any real property, except as otherwise provided in the act.
- Purchase, take, receive, subscribe for, or otherwise dispose of, or otherwise use and deal in and with, shares and other interests in other domestic or foreign corporations, whether for profit or not for profit, associations, partnerships, or individuals, or direct or indirect obligations of the United States, or any governmental entity.
- Lend money for its purposes, invest and reinvest its funds, and take and hold real and personal property as security for the payment of funds lent or invested.
- Merge with other corporations or other business entities.
- Enter into any contract, lease, or other agreement related to the use of ground or surface waters on or through property without the consent of the Board of Trustees of the Internal Improvement

Trust Fund, and permits that may be required by the Department of Environmental Protection or appropriate water management district.
- Grant any easements. Any easements granted within the Babcock Ranch Preserve must be executed by the Board of Trustees of the Internal Improvement Trust Fund. Any easements granted within the Babcock Ranch Preserve titled in the name of a local government must be granted by the governing body of that local government.
- Enter into any contract, lease, or other agreement related to the use and occupancy of the Babcock Ranch Preserve for a period of greater than 10 years.

The bill provides that nothing in the act is construed to interfere with or prevent the ability of Babcock Ranch, Inc., to implement agricultural practices authorized by agricultural land use designations established in the local comprehensive plans of either Charlotte County or Lee County as those plans apply to the Babcock Ranch Preserve, so long as such plans are not in conflict with this section or general law.

The bill authorizes Babcock Ranch, Inc., to assess independent reasonable fees for admission to utilize the Babcock Ranch Preserve to offset the costs of operating the Babcock Ranch Preserve as a working ranch.

The bill provides that upon the dissolution of Babcock Ranch, Inc., for any reason, the management responsibilities shall revert to the Fish and Wildlife Conservation Commission and the Department of Agriculture and Consumer Services unless otherwise provided by the Legislature.

Board of Directors

The bill provides that the Babcock Ranch, Inc., shall be governed by a nine-member governing board whose members will be appointed no later than 90 days after the initial acquisition of the Babcock Ranch by the state. The table below illustrates the composition of the board of directors:

Babcock Board of Directors Member Appointment	Qualification Criteria	Term Limits
Board of Trustees of the Internal Improvement Trust Fund (Four members)	• One appointee must have expertise in domestic livestock management, production, and marketing, including range management and livestock business management • One appointee must have expertise in the management of game and nongame wildlife fish populations, including hunting, fishing, and other recreational activities • One appointee must have expertise in the sustainable management of forest lands for commodity purposes • One appointee must have expertise in financial management, budget and program analysis, and small business operations	• Four initial members (4-yrs.)
Fish and Wildlife Conservation Commission (One member)	One member who has expertise in hunting, fishing, nongame species management or wildlife habitat management, restoration, and conservation.	One initial member (2 –yrs.)
Commissioner of Agriculture (One member)	One member with expertise in agricultural operations or forestry management	One initial member (2 –yrs.)
Babcock Ranch Management, LLC (One member)	One member who has expertise in the activities and management of the Babcock Ranch as of the date of acquisition by the state. The member shall serve only until the termination of the preliminary management agreement. Upon termination of the preliminary management agreement, the person serving as the head of the property owner's association, if any, required to be created under the acquisition agreement shall serve as a member.	One initial member (2 –yrs.)
Charlotte County Board of County Commissioners (One member)	One member who shall be a resident of Charlotte County and who shall be active in an organization concerned with the activities of the ranch.	One initial member (2 –yrs.)
Lee County Board of County Commissioners	One member who shall be a resident of Lee County and who shall have expertise in land conservation and management. This	One initial member (2 –yrs.)

(One member)	appointee shall serve as a member as long as the county participates in the state management plan.	
Note Relating To Term Limits: Each member appointed after the initial appointments be appointed to a 4-year term. Any vacancy among the trustees shall be filled in the same manner as the original appointment and any trustee appointed to fill a vacancy shall be appointed for the remainder of that term. No trustee may serve more than 8 years in consecutive terms.		
Meeting Requirements: At least three times per year at the call of the chair in Charlotte or Lee County in sessions open to the public.		
Chair and Vice Chair Election and Duties: Members shall annually elect a chair and vice chair from among their membership and may by a vote of five of the nine members, remove a member from the position of chair or vice chair prior to the expiration of the position. The chair shall ensure that records are kept of the proceedings of the board and is the custodian of certain official documents. Officers and employees of Babcock Ranch, Inc. are not employees of the state but are private employees. At the request of the trustee's, the state may provide state employees for the purpose of assist the trustees to implement the requirements of this bill. Any state employee assisting for more than 30 days shall be provided on a reimbursable basis. Reimbursement to the Fish and Wildlife Conservation Commission and the Department of Agriculture and Consumer Services shall be made from the Babcock Ranch, Inc. operating fund and not from any funds appropriated by the Legislature.		
Board Member Removal: Each member is accountable for the proper performance of the duties of office, and each member owes a fiduciary duty to the people of the state to ensure funds are disbursed and used as prescribed by law and contract. Any official appointing member may remove that member pursuant to certain criteria in the bill.		
Board Member Compensation: Members serve without compensation, but are entitled to receive per diem and travel expenses as provided by section. 112.061, F.S., while in the performance of their duties. These expenses shall be paid for out of an operating fund of the preserve.		
Board Member Powers and Duties: The board of directors shall adopt articles of incorporation and bylaws necessary to govern its activities which must be approved by the Board of Trustees of the Internal Improvement Trust Fund prior to filing with the Department of State. The board of directors shall review and approve any management plan for the management of lands in the preserve prior to submission of that plan to the Board of Trustees of the Internal Improvement Trust Fund for approval and implementation. The board of directors will have all necessary and proper powers for the exercise of the authorities vested in Babcock Ranch, Inc., including, but not limited to, the power to solicit and accept donations of funds, property, supplies, or services from individuals, foundations, corporations, and other public or private entities. All funds received by Babcock Ranch, Inc., shall be deposited into an authorized operating fund unless otherwise directed by the Legislature. The board of directors may, in consultation with the Fish and Wildlife Conservation Commission and the Department of Agriculture and Consumer Services, designate hunting, fishing, and trapping zones and establish additional periods when hunting, fishing, or trapping are not permitted for reasons of public safety, administration, and the protection and enhancement of nongame habitat and nongame species.		

The bill states that a Board Member may not:

- Be an officer, a director, or a shareholder in any entity that contracts with or receives funds from the Babcock Ranch, Inc., or its subsidiaries with the exception of the Babcock Ranch Management, LLC, appointee.
- Be an employee of any governmental entity.
- Vote in any official capacity upon any measure that would inure to their private gain or loss; that would inure to the special private gain or loss of any principal by who the member is retained or to the parent organization or subsidiary of a principal by which the member is retained; or that the member would inure to the special private gain or loss of a relative or business associate of the member. Prior to any vote being taken, the member shall publicly state the nature of the member's interest in the matter from which the member is abstaining from voting and no later than 15 days after the vote occurs, disclose the nature of the member's interest as a public record in a memorandum filed with the person responsible for recording the minutes of the meeting.
- Vote by proxy.
- Increase the number of its members.

Babcock Ranch, Inc., Financial Matters

The bill provides for the board of directors to establish and manage an operating fund, with a cash balance reserve that is equal to not more than 25 percent of its annual operating expenses, for the unique cash-flow needs associated with facilitating the fiscal management of Babcock Ranch, Inc. The bill stipulates that upon dissolution of Babcock Ranch, Inc., any remaining cash balances of funds shall revert back to the General Revenue Fund or to other state funds consistent with any appropriated funding.

The bill requires the board of directors to prepare an annual budget with the goal of achieving a financially self-sustaining operation within 15 full fiscal years after the initial acquisition of the Babcock

Ranch by the state. The Department of Agriculture and Consumer Services is directed to provide assistance relating to the annual budget request for appropriations and may not deny a request or refuse to include in its annual legislative budget submission a request for appropriations from Babcock Ranch, Inc.

The bill stipulates that all moneys received from donations or from the management of the Babcock Ranch Preserve shall be retained by Babcock Ranch, Inc., in the operating fund and shall be available for the various operational expenses. Moneys received by Babcock Ranch, Inc., from the management of the Babcock Ranch Preserve are not subject to distribution to the state unless stipulated otherwise in this bill. The bill requires Babcock Ranch, Inc., to optimize the generation of income based on existing market conditions to the extent activities do not unreasonably diminish the long-term environmental, agricultural, scenic, and natural values of the Babcock Ranch Preserve, or the multiple-use and sustained-yield capability of the land.

Babcock Ranch, Inc., Reporting Requirements

The bill requires the board of directors to provide for an annual financial audit by an independent certified public accountant. The audit report is required to be submitted no later than three months after the end of the fiscal year to the Auditor General, the President of the Senate, the Speaker of the House of Representatives, and the appropriate substantive and fiscal committees of the Legislature. The bill authorizes certain other governmental entities to receive from the Babcock Ranch, Inc., or from the independent auditor, any records relative to the operation of Babcock Ranch, Inc.

The bill requires by January 15 of each year, Babcock Ranch, Inc., to submit a comprehensive and detailed report of its operations, activities, and accomplishments for the prior year along with goals for that current year to the Board of Trustees of the Internal Improvement Trust Fund, the President of the Senate, the Speaker of the House of Representatives, the Department of Agriculture and Consumer Services, and the Fish and Wildlife Conservation Commission.

Babcock Ranch, Inc., Legal and Insurance Related Maters

The bill requires all parties in contract and that hold a lease with Babcock Ranch, Inc., to procure insurance of an amount reasonable or customary to insure against any loss in connection with such properties or with activities authorized in such leases or contracts.

The bill grants Babcock Ranch, Inc., the exclusive right to utilize its corporate name and any seal, emblem, or insignia adopted by the board of directors along with providing certain prohibitions of such use.

Development of Comprehensive Business Plan for Babcock Preserve

The bill requires Babcock Ranch, Inc., not less than two years before it assumes management responsibilities for Babcock Ranch Preserve, to seek input from the Fish and Wildlife Conservation Commission and the Department of Agriculture and Consumer Services in order to develop a comprehensive business plan for the Babcock Preserve. The comprehensive business plan must provide for the following:

- Management and operation as a working ranch
- Protection and conservation of the environmental, agricultural, scientific, scenic, geologic, watershed, fish, wildlife, historic, cultural, and recreational values of the Babcock Ranch Preserve.
- Promotion of controlled high-quality hunting experiences for the public, with emphasis on deer, turkey, and other game species.
- Multiple use and sustained yield of renewable surface resources within the Babcock Ranch preserve.
- Public use of and controlled access to the Babcock Ranch Preserve.
- Renewable resource use and management alternatives that benefit local communities and enhance the coordination of management objectives with those on surrounding lands. The use of renewable resources and management alternatives should provide a cost savings to Babcock Ranch, Inc.

The bill provides that the comprehensive business plan for the management and operation of the Babcock Ranch Preserve as a working ranch and amendments to the business plan may be developed with input from the Fish and Wildlife Conservation Commission and the Department of Agriculture and Consumer Services, and may only be implemented by Babcock Ranch, Inc., upon the expiration of the preliminary management agreement with Babcock Ranch Management, LLC. Decisions to adopt or amend the comprehensive business plan or any activity related to the management of the land shall be made in sessions that are open to the public for comment, and any amendment to the plan regarding agricultural operations of the ranch is not effective until approved by the Commissioner.

C. SECTION DIRECTORY:

Section 1. Creates section 259.106, F.S., relating to the management of the Babcock Ranch Preserve.

Section 2. Provides for an appropriation, with contingencies, and the distribution of funds.

Section 3. Provides the act will take effect July 1, 2006.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues: None.

Expenditures: See fiscal comments.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues: None.

2. Expenditures: None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The bill provides that the Babcock Ranch must be protected for current and future generations by continued operation as a working ranch under a unique management regime that protects the land and resource values of the property and surrounding ecosystems while allowing the ranch to become financially self-sustaining.

D. FISCAL COMMENTS:

The bill provides an appropriation of $310 million from the Land Acquisition Trust Fund to the Department of Environmental Protection for the purchase of the Babcock Ranch contingent upon, but not limited to, the continuation of silviculture operations, tenant farming and hunting policies currently in practice on the ranch. The bill also provides for a distribution schedule of the funds.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable because this bill does not appear to: require cities or counties to spend funds or take actions requiring the expenditure of funds; reduce the authority that cities or counties have to raise revenues in the aggregate; or reduce the percentage of a state tax shared with cities or counties.

2. Other: None.

B. RULE-MAKING AUTHORITY:

No additional rule making authority is required to implement the provisions of this bill.

C. DRAFTING ISSUES OR OTHER COMMENTS: None.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES

On March 22, 2006, the Environmental Regulation Committee favorably adopted a "Strike All" amendment to HB 1347. The analysis has been revised to reflect this amendment.

On April 17, 2006, the Agriculture and Environment Appropriations Committee adopted a "strike all" amendment to HB 1347 that made the following changes to the bill:

- Provides a definition for "Working ranch" to mean those activities necessary to accomplish the goals of multiple use and sustained yield of the renewable surface resources, and includes but is not limited to silvicultural operations regardless of location or species, pasture management, livestock management, native plant nursery operations, apiary operations, sod farming, eco-tourism, tenant farming, hunting leases, and horticultural debris disposal.
- Clarifies that no member on the nine member governing board shall be an employee of any governmental entity along with clarifying one member is to be appointed by the FWCC as previously appointed by the executive director of FWCC.
- Provides a technical amendment relating to the name of "Babcock Ranch Management, LLC" to conform to the existing management agreement.
- Provides that any amendment regarding the agricultural operations of the ranch shall not be effective until approved by the commissioner.
- Appropriates $310 million from the Land Acquisition Trust Fund to the Department of Environmental protection to purchase Babcock Crescent B Ranch contingent upon the continuation of silviculture, leased agriculture and hunting policies in practice now on the ranch. The amendment also provides a schedule for the distribution of funds.

The analysis has been revised to reflect this amendment.

CHAMBER ACTION

The Agriculture & Environment Appropriations Committee recommends the following:

Council/Committee Substitute

Remove the entire bill and insert:

A bill to be entitled

An act relating to land management; creating s. 259.106, F.S.; creating the Babcock Ranch Preserve Act; providing definitions; creating Babcock Ranch, Inc., a not-for-profit corporation to be incorporated in the state; providing that the corporation shall act as an instrumentality of the state for purposes of sovereign immunity under s. 768.28, F.S.; providing that the corporation shall not be an agency under s. 20.03, F.S., or a unit or entity of state government; providing that the corporation is subject to the provisions of chs. 119 and 286, F.S., relating to public records and meetings; requiring public records and meetings; providing for the corporation to be governed by a board of directors; providing for the qualifications, appointment, removal, and liability of board members and their terms of office; prohibiting any board member from voting on any measure that constitutes a conflict of interest; providing for the

board members to serve without compensation, but to receive per diem and travel expenses; providing for organization and meetings; authorizing state agencies to provide state employees for purposes of implementing the Babcock Ranch Preserve; providing certain powers and duties of the corporation; providing limitations on the powers and duties of the corporation; providing that the corporation and its subsidiaries must provide equal employment opportunities; providing for the corporation to establish and manage an operating fund; requiring an annual financial audit of the accounts and records of the corporation; requiring annual reports by the corporation to the Board of Trustees of the Internal Improvement Trust Fund, the Legislature, the Department of Agriculture and Consumer Services, and the Fish and Wildlife Conservation Commission; requiring that the corporation prepare an annual budget; specifying a goal of financially self-sustaining operation within a certain period; providing for the corporation to retain donations and other moneys; requiring that the corporation adopt articles of incorporation and bylaws subject to the approval of the Board of Trustees of the Internal Improvement Trust Fund; authorizing the corporation to appoint advisory committees; providing requirements for a comprehensive business plan; specifying the procedures by which the corporation shall assume the management and operation of the Babcock Ranch Preserve; prohibiting the corporation from taking certain actions without the consent of the

Board of Trustees of the Internal Improvement Trust Fund; requiring that the corporation be subject to certain state laws and rules governing the procurement of commodities and services; authorizing the corporation to assess reasonable fees; providing for management of the Babcock Ranch Preserve until expiration of a current management agreement; providing for reversion of the management and operation responsibilities to certain agencies upon the dissolution of the corporation; providing that the corporation may be dissolved only by an act of the Legislature; providing for reversion of funds upon the dissolution of the corporation; providing for an appropriation subject to specified conditions; providing an effective date.

WHEREAS, the Babcock Crescent B Ranch comprises the largest private undeveloped single-ownership tract of land in Charlotte County and contains historical evidence in the form of old logging camps and other artifacts that indicate the importance of this land for domesticated livestock production, timber supply, and other bona fide agricultural uses, and

WHEREAS, the careful husbandry of the Babcock Crescent B Ranch, including selective timbering, grazing and hunting, and the use of prescribed burning, has preserved a mix of healthy range and timberland with significant species diversity and provides a model for sustainable land development and use, and

WHEREAS, the Babcock Crescent B Ranch must be protected for current and future generations by continued operation as a

working ranch under a unique management regime that protects the land and resource values of the property and the surrounding ecosystem while allowing and providing for the ranch to become financially self-sustaining, and

WHEREAS, it is in the public's best interest that the management regime for the Babcock Crescent B Ranch include the development of an operational program for appropriate preservation and development of the ranch's land and resources, and

WHEREAS, the public's interest will be served by the creation of a not-for-profit corporation to develop and implement environmentally sensitive, cost-effective, and creative methods to manage and operate a working ranch, NOW, THEREFORE,

Be It Enacted by the Legislature of the State of Florida:

Section 1. Section 259.106, Florida Statutes, is created to read:

259.106 Babcock Ranch Preserve; Babcock Ranch, Inc.; creation; membership; organization; meetings.--

(1) SHORT TITLE.--This section may be cited as the "Babcock Ranch Preserve Act."

(2) DEFINITIONS.--As used in this section, the term:

(a) "Babcock Ranch Preserve" and "preserve" mean the lands and facilities acquired in the purchase of the Babcock Crescent B Ranch.

(b) "Babcock Ranch, Inc." and "corporation" mean the not-for-profit corporation created under this section to operate and manage the Babcock Ranch Preserve as a working ranch.

(c) "Board of directors" means the governing board of the not-for-profit corporation created under this section.

(d) "Commission" means the Fish and Wildlife Conservation Commission.

(e) "Commissioner" means the Commissioner of Agriculture.

(f) "Department" means the Department of Agriculture and Consumer Services.

(g) "Financially self-sustaining" means management and operating expenditures not more than the revenues collected from fees and other receipts for resource use and development and from interest and invested funds.

(h) "Management and operating expenditures" means expenses of the corporation, including, but not limited to, salaries and benefits of officers and staff, administrative and operating expenses, costs for improvements to and maintenance of lands and facilities of the Babcock Ranch Preserve, and other similar expenses. Such expenditures shall be made from revenues generated from the operation of the ranch and not from funds appropriated by the Legislature except as provided in this section.

(i) "Member" means a person appointed to the board of directors of the not-for-profit corporation created under this section.

(j) "Multiple use" means the management of all of the renewable surface resources of the Babcock Ranch Preserve to

best meet the needs of the public, including the use of the land for some or all of the renewable surface resources or related services over areas large enough to allow for periodic adjustments in use to conform to the changing needs and conditions of the preserve while recognizing that a portion of the land will be used for some of the renewable surface resources available on that land. The goal of multiple use is the harmonious and coordinated management of the renewable surface resources without impairing the productivity of the land and considering the relative value of the renewable surface resources, and not necessarily a combination of uses to provide the greatest monetary return or the greatest unit output.

(k) "Sustained yield of the renewable surface resources" means the achievement and maintenance of a high level of annual or regular periodic output of the various renewable surface resources of the preserve without impairing the productivity of the land.

(l) "Working ranch" means those activities necessary to accomplish the goals of multiple use and sustained yield of the renewable surface resources and includes, but is not limited to, silvicultural operations, regardless of location or species, pasture management, livestock management, native plant nursery operations, apiary operations, sod farming, ecotourism, tenant farming, hunting leases, and horticultural debris disposal.

(3) CREATION OF BABCOCK RANCH PRESERVE.--

(a) The acquisition of the Babcock Crescent B Ranch by the Board of Trustees of the Internal Improvement Trust Fund is a conservation acquisition with a goal of sustaining the

ecological and economic integrity of the property being acquired while allowing the business of the working ranch to operate and prosper.

(b) Upon the date of acquisition of the Babcock Crescent B Ranch, there is created the Babcock Ranch Preserve, which shall be managed in accordance with the purposes and requirements of this section.

(c) The preserve is established to protect and preserve the environmental, agricultural, scientific, scenic, geologic, watershed, fish, wildlife, historic, cultural, and recreational values of the preserve, and to provide for the multiple use and sustained yield of the renewable surface resources within the preserve consistent with this section. There shall be no restriction, including reference to location or species, on any silvicultural operation so long as current best management practices adopted by the department are followed. Pasture management, hunting leases, and tenant farming shall be allowed at the discretion of Babcock Ranch, Inc.

(d) Babcock Ranch, Inc., and its officers and employees shall participate in the management of the Babcock Ranch Preserve in an advisory capacity only until the comprehensive business plan referenced in paragraph (11)(a) is terminated or expires.

(e) Nothing in this section shall preclude Babcock Ranch, Inc., prior to assuming management and operation of the preserve and thereafter, from allowing the use of common varieties of mineral materials such as sand, stone, and gravel for

construction and maintenance of roads and facilities within the preserve.

(f) Nothing in this section shall be construed as affecting the constitutional responsibilities of the commission in the exercise of its regulatory and executive power with respect to wild animal life and freshwater aquatic life, including the regulation of hunting, fishing, and trapping within the preserve.

(g) Nothing in this section shall be construed to interfere with or prevent the ability of Babcock Ranch, Inc., to implement agricultural practices authorized by the agricultural land use designations established in the local comprehensive plans of either Charlotte County or Lee County as those plans apply to the Babcock Ranch Preserve, so long as such plans are not in conflict with this section or general law.

(h) Nothing in this section shall preclude the maintenance and use of roads and trails or the relocation of roads in existence on the effective date of this section, or the construction, maintenance, and use of new trails, or any motorized access necessary for the administration of the land contained within the preserve, including motorized access necessary for emergencies involving the health or safety of persons within the preserve.

(4) CREATION OF BABCOCK RANCH, INCORPORATED.--

(a) There is created a not-for-profit corporation, to be known as Babcock Ranch, Inc., which shall be registered, incorporated, organized, and operated in compliance with the provisions of chapter 617 and which shall not be a unit or

entity of state government. For purposes of sovereign immunity, the corporation shall be a corporation primarily acting as an instrumentality of the state but otherwise shall not be an agency within the meaning of s. 20.03(11) or a unit or entity of state government.

(b) The corporation is organized on a nonstock basis and shall operate in a manner consistent with its public purpose and in the best interest of the state.

(c) Meetings and records of the corporation, its directors, advisory committees, or similar groups created by the corporation, including any not-for-profit subsidiaries, are subject to the public records provisions of chapter 119 and the public meetings and records provisions of s. 286.011.

(5) APPLICABILITY OF SECTION.--In any conflict between a provision of this section and a provision of chapter 617, the provision of this section shall prevail.

(6) PURPOSE.--The purpose of Babcock Ranch, Inc., is to provide management and administrative services for the preserve, to establish and implement management policies that will achieve the purposes and requirements of this section, to cooperate with state agencies to further the purposes of the preserve, and to establish the administrative and accounting procedures for the operation of the corporation.

(7) BOARD; MEMBERSHIP; REMOVAL; LIABILITY.--The corporation shall be governed by a nine-member board of directors who shall be appointed by the Board of Trustees of the Internal Improvement Trust Fund; the commission; the commissioner; the Babcock Ranch Management, LLC, a corporation

registered to do business in the state, or its successors or assigns; the Board of County Commissioners of Charlotte County; and the Board of County Commissioners of Lee County in the following manner:

(a)1. The Board of Trustees of the Internal Improvement Trust Fund shall appoint four members. One appointee shall have expertise in domesticated livestock management, production, and marketing, including range management and livestock business management. One appointee shall have expertise in the management of game and nongame wildlife and fish populations, including hunting, fishing, and other recreational activities. One appointee shall have expertise in the sustainable management of forest lands for commodity purposes. One appointee shall have expertise in financial management, budget and program analysis, and small business operations.

2. The commission shall appoint one member with expertise in hunting; fishing; nongame species management; or wildlife habitat management, restoration, and conservation.

3. The commissioner shall appoint one member with expertise in agricultural operations or forestry management.

4. The Babcock Ranch Management, LLC, its successors or assigns, shall appoint one member with expertise in the activities and management of the Babcock Crescent B Ranch on the date of acquisition of the ranch by the state. This appointee shall serve on the board of directors only until the termination or expiration of the management agreement. Upon termination or expiration of the management agreement, the person serving as the head of the property owners' association, if any, required

to be created under the agreement for sale and purchase shall serve as a member of the Board of Directors of Babcock Ranch, Inc.

5. The Board of County Commissioners of Charlotte County shall appoint one member who shall be a resident of the county and who shall be active in an organization concerned with the activities of the ranch.

6. The Board of County Commissioners of Lee County shall appoint one member who shall be a resident of the county and who shall have experience in land conservation and management. This appointee, or a successor appointee, shall serve as a member of the board of directors so long as the county participates in the state land management plan.

(b) All members of the board of directors shall be appointed no later than 90 days following the initial acquisition of the Babcock Crescent B Ranch by the state.

1. Four members initially appointed by the Board of Trustees of the Internal Improvement Trust Fund shall each serve a 4-year term.

2. The remaining initial five appointees shall each serve a 2-year term.

3. Each member appointed thereafter shall serve a 4-year term.

4. A vacancy shall be filled in the same manner in which the original appointment was made, and a member appointed to fill a vacancy shall serve for the remainder of that term.

5. No member may serve more than 8 years in consecutive terms.

(c) No appointee shall be an employee of any governmental entity.

(d) With the exception of the Babcock Ranch Management, LLC, appointee, no member may be an officer, director, or shareholder in any entity that contracts with or receives funds from the corporation or its subsidiaries.

(e) No member shall vote in an official capacity upon any measure that would inure to his or her special private gain or loss, that he or she knows would inure to the special private gain or loss of any principal by whom he or she is retained or to the parent organization or subsidiary of a principal by which he or she is retained, or that he or she knows would inure to the special private gain or loss of a relative or business associate of the member. Such member shall, prior to the vote being taken, publicly state the nature of his or her interest in the matter from which he or she is abstaining from voting and, no later than 15 days after the date the vote occurs, shall disclose the nature of his or her interest as a public record in a memorandum filed with the person responsible for recording the minutes of the meeting, who shall incorporate the memorandum in the minutes of the meeting.

(f) Each member of the board of directors is accountable for the proper performance of the duties of office, and each member owes a fiduciary duty to the people of the state to ensure that funds provided in furtherance of this section are disbursed and used as prescribed by law and contract. Any official appointing a member may remove that member for malfeasance, misfeasance, neglect of duty, incompetence,

permanent inability to perform official duties, unexcused absence from three consecutive meetings of the board, arrest or indictment for a crime that is a felony or misdemeanor involving theft or a crime of dishonesty, or pleading nolo contendere to, or being found guilty of, any crime.

(g) Each member of the board of directors shall serve without compensation but shall receive travel and per diem expenses as provided in s. 112.061 while in the performance of his or her duties. These expenses shall be paid from the operating funds of the ranch.

(8) ORGANIZATION; MEETINGS.--

(a)1. The board of directors shall annually elect a chair and a vice chair from among the board's members. The members may, by a vote of at least five of the nine board members, remove a member from the position of chair or vice chair prior to the expiration of his or her term as chair or vice chair. His or her successor shall be elected to serve for the balance of the removed chair's or vice chair's term.

2. The chair shall ensure that records are kept of the proceedings of the board of directors and is the custodian of all books, documents, and papers filed with the board, the minutes of meetings of the board, and the official seal of the corporation.

(b)1. The board of directors shall meet upon the call of the chair at least three times per year in Charlotte County or in Lee County.

2. A majority of the members of the board of directors constitutes a quorum. Except as otherwise provided in this

section, the board of directors may take official action by a majority of the members present at any meeting at which a quorum is present. Members may not vote by proxy.

(9) POWERS AND DUTIES.--

(a) The board of directors shall adopt articles of incorporation and bylaws necessary to govern its activities. The adopted articles of incorporation and bylaws must be approved by the Board of Trustees of the Internal Improvement Trust Fund prior to filing with the Department of State.

(b) The board of directors shall review and approve any management plan prior to the submission of that plan to the Board of Trustees of the Internal Improvement Trust Fund for approval and implementation.

(c)1. Except for the constitutional powers of the commission as provided in s. 9, Art. IV of the State Constitution, the board of directors shall have all necessary and proper powers for the exercise of the authority vested in the corporation, including, but not limited to, the power to solicit and accept donations of funds, property, supplies, or services from individuals, foundations, corporations, and other public or private entities for the purposes of this section. All funds received by the corporation shall be deposited into the operating fund authorized under this section unless otherwise directed by the Legislature.

2. The board of directors may not increase the number of its members.

3. The corporation may not purchase, take, receive, lease, take by gift, devise, or bequest, or otherwise acquire, own,

hold, improve, use, or otherwise deal in and with real property, or any interest therein, wherever situated, unless otherwise provided in this section.

4. The corporation may not sell, convey, mortgage, pledge, lease, exchange, transfer, or otherwise dispose of any real property, unless otherwise provided in this section.

5. The corporation may not purchase, take, receive, subscribe for, or otherwise acquire, own, hold, vote, use, employ, sell, mortgage, lend, pledge, or otherwise dispose of, or otherwise use and deal in and with, shares and other interests in, or obligations of, other domestic or foreign corporations, whether for profit or not for profit, associations, partnerships, or individuals, or direct or indirect obligations of the United States or of any other government, state, territory, government district, municipality, or any instrumentality thereof.

6. The corporation may not lend money for its corporate purposes, invest and reinvest its funds, and take and hold real and personal property as security for the payment of funds lent or invested.

7. The corporation may not merge with other corporations or other business entities.

8. The corporation may not enter into any contract, lease, or other agreement related to the use of ground or surface waters located in, on, or through the preserve without the consent of the Board of Trustees of the Internal Improvement Trust Fund and permits that may be required by the Department of

Environmental Protection or the appropriate water management district under chapters 373 and 403.

9. The corporation may not grant any easements in, on, or across the preserve. Any easements to be granted for the use of, access to, or ingress and egress across state property within the preserve must be executed by the Board of Trustees of the Internal Improvement Trust Fund as the owners of the state property within the preserve. Any easements to be granted for the use of, access to, or ingress and egress across property within the preserve titled in the name of a local government must be granted by the governing body of that local government.

10. The corporation may not enter into any contract, lease, or other agreement related to the use and occupancy of the property within the preserve for a period of greater than 10 years.

(d) The corporation, in consultation with the commission and the department, may designate hunting, fishing, and trapping zones and may establish additional periods when no hunting, fishing, or trapping shall be permitted for reasons of public safety, administration, and the protection and enhancement of nongame habitat and nongame species, as defined under s. 372.001.

(e) The corporation shall have the sole and exclusive right to use the words "Babcock Ranch, Inc." and any seal, emblem, or other insignia adopted by the members. Without the express written authority of the corporation, no person may use the words "Babcock Ranch, Inc." as the name under which that person conducts or purports to conduct business, for the purpose

of trade or advertisement, or in any manner that may suggest any connection with the corporation.

(f) The corporation may from time to time appoint advisory committees to further any part of this section. The advisory committees shall be reflective of the expertise necessary for the particular function for which the committee is created and may include public agencies, private entities, and not-for-profit conservation and agricultural representatives.

(g) State laws governing the procurement of commodities and services by state agencies, as provided in s. 287.057, shall apply to the corporation.

(h) The corporation and its subsidiaries must provide equal employment opportunities for all persons regardless of race, color, religion, gender, national origin, age, handicap, or marital status.

(10) OPERATING FUND; AUDIT; REPORTING REQUIREMENTS; ANNUAL BUDGET.--

(a) The board of directors may establish and manage an operating fund to address the corporation's unique cash-flow needs and to facilitate the management and operation of the preserve as a working ranch. A cash balance reserve of not more than 25 percent of the annual management and operating expenditures of the corporation may accumulate and be maintained in the operating fund at any time.

(b) The board of directors shall provide for an annual financial audit of the corporate accounts and records to be conducted by an independent certified public accountant in accordance with rules adopted by the Auditor General under s.

11.45(8). The audit report shall be submitted no later than 3 months following the end of the fiscal year to the Auditor General, the President of the Senate, the Speaker of the House of Representatives, and the appropriate substantive and fiscal committees of the Legislature. The Auditor General, the Office of Program Policy Analysis and Government Accountability, and the substantive or fiscal committees of the Legislature to which legislation affecting the Babcock Ranch Preserve may be referred shall have the authority to require and receive from the corporation or from the independent auditor any records relative to the operation of the corporation.

(c) Not later than January 15 of each year, Babcock Ranch, Inc., shall submit to the Board of Trustees of the Internal Improvement Trust Fund, the President of the Senate, the Speaker of the House of Representatives, the department, and the commission a comprehensive and detailed report of its operations, activities, and accomplishments for the prior year, including information on the status of the ecological, cultural, and financial resources being managed by the corporation and the benefits provided by the preserve to local communities. The report shall also include a section describing the corporation's goals for the current year.

(d) The board of directors shall prepare an annual budget with the goal of achieving a financially self-sustaining operation within 15 full fiscal years after the initial acquisition of the Babcock Crescent B Ranch by the state. The department shall provide necessary assistance, including details as necessary, to the corporation for the timely formulation and

submission of an annual legislative budget request for appropriations, if any, to support the administration, operation, and maintenance of the preserve. A request for appropriations, if necessary, shall be submitted to the department and shall be included in the department's annual legislative budget request as a separate line item appropriation. Requests for appropriations shall be submitted to the department in time to allow the department to meet the requirements of s. 216.023. The department may not deny a request or refuse to include in its annual legislative budget submission a request from the corporation for an appropriation.

(e) Notwithstanding any other provision of law, all moneys received from donations or from management of the preserve shall be retained by the corporation in the operating fund and shall be available, without further appropriation, for the administration, preservation, restoration, operation and maintenance, improvements, repairs, and related expenses incurred with respect to properties being managed by the corporation. Except as provided in this section, moneys received by the corporation for the management of the preserve shall not be subject to distribution by the state. Upon assuming management responsibilities for the preserve, the corporation shall optimize the generation of income based on existing marketing conditions to the extent that activities do not unreasonably diminish the long-term environmental, agricultural, scenic, and natural values of the preserve or the multiple-use and sustained-yield capability of the land.

(f) All parties in contract with the corporation and all holders of leases from the corporation that are authorized to occupy, use, or develop properties under the management jurisdiction of the corporation must procure the proper insurance as is reasonable or customary to insure against any loss in connection with the properties or with activities authorized in the leases or contracts.

(11) COMPREHENSIVE BUSINESS PLAN.--

(a) A comprehensive business plan for the management and operation of the preserve as a working ranch and amendments to the business plan may be developed with input from the department and the commission and may be implemented by Babcock Ranch, Inc. Any amendment to the business plan regarding the agricultural operations of the ranch shall not be effective until approved by the commissioner.

(b) Any final decision of Babcock Ranch, Inc., to adopt or amend the comprehensive business plan or to approve any activity related to the management of the renewable surface resources of the preserve shall be made in sessions that are open to the public. The board of directors shall establish procedures for providing adequate public information and opportunities for public comment on the proposed comprehensive business plan for the preserve or for amendments to the comprehensive business plan adopted by the members.

(c) Not less than 2 years prior to the corporation's assuming management and operation responsibilities for the preserve, the corporation, with input from the commission and the department, must begin developing the comprehensive business

plan to carry out the purposes of this section. To the extent consistent with these purposes, the comprehensive business plan shall provide for:

1. The management and operation of the preserve as a working ranch.

2. The protection and conservation of the environmental, agricultural, scientific, scenic, geologic, watershed, fish, wildlife, historic, cultural, and recreational values of the preserve.

3. The promotion of controlled high-quality hunting experiences for the public, with emphasis on deer, turkey, and other game species.

4. Multiple use and sustained yield of the renewable surface resources within the preserve.

5. Public use of and controlled access to the preserve for recreation.

6. The use of renewable resources and management alternatives that, to the extent practicable, benefit local communities and small businesses and enhance the coordination of management objectives with those on surrounding public or private lands. The use of renewable resources and management alternatives should provide cost savings to the corporation through the exchange of services, including, but not limited to, labor and maintenance of facilities, for resources or services provided to the corporation.

(d) On or before the date on which title to the portion of the Babcock Crescent B Ranch being purchased by the state is vested in the Board of Trustees of the Internal Improvement

Trust Fund, Babcock Ranch Management, LLC, a limited liability company incorporated in the state, shall provide the commission and the department with the current proprietary management plan and business plan in place.

(12) MANAGEMENT OF PRESERVE; FEES.--

(a) The corporation shall assume all authority provided by this section to manage and operate the preserve as a working ranch upon a determination by the Board of Trustees of the Internal Improvement Trust Fund that the corporation is able to conduct business and that provision has been made for essential services on the preserve, which, to the maximum extent practicable, shall be made no later than 60 days prior to the termination of the comprehensive business plan referenced in paragraph (11)(a).

(b) Upon assuming management and operation of the preserve, the corporation shall:

1. With input from the commission and the department, manage and operate the preserve and the uses thereof, including, but not limited to, the activities necessary to administer and operate the preserve as a working ranch; the activities necessary for the preservation and development of the land and renewable surface resources of the preserve; the activities necessary for interpretation of the history of the preserve on behalf of the public; the activities necessary for the management, public use, and occupancy of facilities and lands within the preserve; and the maintenance, rehabilitation, repair, and improvement of property within the preserve.

2. Develop programs and activities relating to the management of the preserve as a working ranch.

3. Negotiate directly with and enter into such agreements, leases, contracts, and other arrangements with any person, firm, association, organization, corporation, or governmental entity, including entities of federal, state, and local governments, as are necessary and appropriate to carry out the purposes and activities authorized by this section.

4. Establish procedures for entering into lease agreements and other agreements for the use and occupancy of the facilities of the preserve. The procedures shall ensure reasonable competition and set guidelines for determining reasonable fees, terms, and conditions for such agreements.

5. Assess reasonable fees for admission to, use of, and occupancy of the preserve for operation of the preserve as a working ranch. These fees are independent of fees assessed by the commission for the privilege of hunting, fishing, or pursuing outdoor recreational activities within the preserve and shall be deposited into the operating fund established by the board of directors under the authority provided in this section.

(13) MISCELLANEOUS PROVISIONS.--

(a) Except for the powers of the commissioner provided in this section and the powers of the commission provided in s. 9, Art. IV of the State Constitution, the preserve shall be managed by Babcock Ranch, Inc.

(b) Officers and employees of Babcock Ranch, Inc., are private employees. At the request of the board of directors, the commission and the department may provide state employees for

the purpose of implementing this section. Any state employee provided to assist the directors in implementing this section for more than 30 days shall be provided on a reimbursable basis. Reimbursement to the commission and the department shall be made from the corporation's operating fund provided under this section and not from any funds appropriated to the corporation by the Legislature.

(14) DISSOLUTION OF BABCOCK RANCH, INCORPORATED.--

(a) The corporation may be dissolved only by an act of the Legislature.

(b) Upon dissolution of the corporation, the management responsibilities provided in this section shall revert to the commission and the department unless otherwise provided by the Legislature under the act dissolving Babcock Ranch, Inc.

(c) Upon dissolution of the corporation, any cash balances of funds shall revert to the General Revenue fund or such other state fund as may be provided under the act dissolving Babcock Ranch, Inc.

Section 2. (1) The sum of $310 million is appropriated from the Land Acquisition Trust Fund to the Department of Environmental Protection for the purchase of the Babcock Crescent B Ranch contingent upon the purchase or management agreement or both agreements containing or not conflicting with the following provisions:

(a) Babcock Ranch Management, LLC, shall be the managing entity of the working ranch for 5 years with an option to continue for an additional 5 years.

(b) Babcock Ranch, Inc., shall take over the management of the working ranch after the Babcock Ranch Management, LLC, ceases to be the ranch manager.

(c) Babcock Ranch, Inc., shall adopt a management plan consistent with current ranch management practices when Babcock Ranch, Inc., takes over management of the working ranch.

(d) The Commissioner of Agriculture shall have authority to approve or reject any proposed changes to the management plan relating to the agricultural operations on the working ranch.

(e) The working ranch shall continue to be operated in a financially self-sustaining manner.

(f) The following ranch operations shall not be prohibited or restricted except by general law:

1. Silvicultural operations, regardless of species and location.

2. Tenant farming.

3. Hunting leases.

4. Any other bona fide agricultural use.

(2) The funds appropriated in subsection (1) shall be distributed to the seller in accordance with the terms of the purchase agreement but no sooner than the following dates:

(a) The sum of $162,500,000 on or after July 1, 2006.

(b) The sum of $62,500,000 on or after July 1, 2007.

(c) The sum of $62,500,000 on or after July 1, 2008.

(d) The sum of $22,500,000 on or after July 1, 2009.

Section 3. This act shall take effect upon becoming a law.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 1359 CS Hazard Mitigation for Coastal Redevelopment
SPONSOR(S): Benson
TIED BILLS: **IDEN./SIM. BILLS:** SB 2216

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) Environmental Regulation Committee	6 Y, 0 N, w/CS	Kliner	Kliner
2) Transportation & Economic Development Appropriations Committee	12 Y, 0 N	McAuliffe	Gordon
3) State Resources Council		Kliner	Hamby
4)			
5)			

SUMMARY ANALYSIS

The bill authorizes the Department of Environmental Protection (DEP) to revoke the authority for the emergency installation of a rigid coastal armoring structure by an agency, political subdivision, or municipality if such installation conflicts with certain public policies regarding adjacent properties, public access, or damage to vegetation or nesting turtle populations.

The bill defines Coastal High Hazard Area (CHHA), which is the area below the elevation of the category 1 storm surge line, and provides guidance for a local government that amends its comprehensive plan to increase population densities in a CHHA. The bill requires that the coastal management element of a local government's comprehensive plan contain a designation of a CHHA.

The bill provides a proposed comprehensive plan amendment must be in compliance with state coastal high hazard standards if the adopted level of service for out-of-county hurricane evacuation is maintained; or the 12-hour evacuation time to a shelter is maintained and there is sufficient shelter space available; or appropriate mitigation will ensure that the level of service for out-of-county hurricane evacuation is maintained; or mitigation will ensure that the 12-hour evacuation time to a shelter is maintained and there is sufficient shelter space available. Mitigation may not exceed the amount required for a developer to accommodate impacts reasonably attributable to the development, and must include the payment of money, and contribution of land and construction of hurricane shelters and transportation facilities. For those local governments that have not established a level of service for out of county hurricane evacuation by July 1, 2008, the level of service shall be no greater than 16 hours

The bill places a moratorium on the construction of new adult congregate living facilities, community residential homes, group homes, homes for the aged, hospitals, mobile home parks, or nursing homes within the coastal high hazard area. Local governments must amend their Future Land Use Map and coastal management element to include the new definition of coastal high hazard, the coastal high hazard map, and the appropriate mitigation strategies by July 1, 2008. The bill requires for the Division of Emergency Management to manage the update of regional hurricane evacuation studies.

The bill prohibits the Department of Health from issuing a construction or repair permit for onsite sewage treatment and disposal systems located seaward of the coastal construction control line without receipt of a permit from the Department of Environmental Protection.

The bill will not have a significant impact on state government or local government.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Provide limited government. The bill authorizes the Department of Environmental Protection (DEP) to revoke the authority for the emergency installation of a rigid coastal armoring structure by an agency, political subdivision, or municipality if such installation conflicts with certain public policies regarding adjacent properties, public access, or damage to vegetation or nesting turtle populations.

The bill directs local governments to amend their Future Land Use Map and coastal management element to include the new definition of coastal high hazard, the coastal high hazard map, and the appropriate mitigation strategies by July 1, 2008.

The bill authorizes the Department of Health to contact the DEP prior to permitting work that may be performed on on-site sewage systems seaward of the Coastal Construction Control Line.

Safeguard individual liberty. The bill places a moratorium on the construction of new adult congregate living facilities, community residential homes, group homes, homes for the aged, hospitals, mobile home parks, or nursing homes within the coastal high hazard area.

B. EFFECT OF PROPOSED CHANGES:

Present Situation

Dune Armoring

Along with regulating construction along Florida's coastline, the DEP manages beach restoration projects to restore eroded shoreline in coordination with the federal and local governments. Subsequent maintenance of restored shorelines, referred to as nourishment, is also administered by the DEP.

Local governments are key players in beach management. All beach front communities are responsible for assuring compliance with zoning and building codes. Some play active roles in obtaining and maintaining beach access points, trash pickup and cleanup programs, dune vegetation regulation or maintenance, and water safety. Almost all counties, a number of cities, and several special districts now are involved in planning, implementing or maintaining a beach management activity such as inlet sand by-passing, beach restoration or dune restoration. The local government sponsor is responsible for planning the project, submitting information necessary to determine the priority of the proposal, obtaining necessary permits, bidding and contracting the work, and conducting subsequent monitoring.[1]

Federal agencies are involved in the regulation of beach activities through United States Army Corps of Engineers permits required for activities conducted seaward of mean high water, and through consultation required under the National Environmental Policy Act, the Endangered Species Act, the Marine Mammals Protection Act, and others. Typically, close coordination will take place with the National Marine Fisheries Service, the United States Fish and Wildlife Service, and the Environmental Protection Agency. Primary issues include provisions to protect sea turtles and shore birds, beach mice in those areas where they are still located, and Essential Fish Habitat.[2]

The purpose of the Coastal Construction Control Line Program (CCCL) is to protect Florida's beaches and dunes while assuring reasonable use of private property. The Legislature initiated the CCCL

[1] Department of Environmental Protection Report for the Governor's Coastal High Hazard Study Committee on Chapter 161, Florida Statutes -- December, 2005, page 3.
[2] Ibid.

Program to protect the coastal system from improperly sited and designed structures which can destabilize or destroy the beach and dune system. Once destabilized, the valuable natural resources are lost, as are its important values for recreation, upland property protection, and environmental habitat. Adoption of a coastal construction control line establishes an area of jurisdiction in which special site and design criteria are applied for construction and related activities. These standards may be more stringent than those already applied in the rest of the coastal building zone because of the greater forces expected to occur in the more seaward zone of the beach during a storm event.

Under emergency conditions, local governments may authorize temporary armoring to immediately protect public and private infrastructure like homes, utilities and roads if those structures are threatened. In order to consider the armoring permanent, the property owner must submit a complete (CCCL) permit application to the DEP within 60 days of installing the armoring. Otherwise, the property owner must remove the temporary armoring structure.

The DEP permits the installation of "dune stabilization or restoration structures" and "beach stabilization or regeneration structures" only in limited circumstances and as temporary systems in order to evaluate (1) the structure's effectiveness, (2) the structure's effect on adjacent properties, and (3) the structure's environmental impact on the beach and dune system. If erosion occurs as a result of a storm event which threatens private structures or public infrastructure, the DEP, a municipality, or another political subdivision may install or have installed rigid coastal armoring structures so long as the following measures are considered with the emergency armoring:

- Protection of the beach-dune system.
- Siting and design criteria for the protective structure
- Impacts on adjacent structures
- Preservation of public beach access
- Protection of native coastal vegetation and nesting marine turtles and their hatchlings.

Onsite Sewage Treatment and Disposal Systems

According to the Florida Department of Health, 31 percent of the population is served by estimated 2.3 million onsite sewage treatment and disposal systems (OSTDS). These systems discharge over 426 million gallons of treated effluent per day into the subsurface soil environment. [3]

Onsite sewage treatment and disposal systems are facilities constructed on individual sites used to provide wastewater disposal. Such systems usually consist of a septic tank and a subsurface infiltration system. Within the septic tank, sedimentation and some anaerobic digestion of solids occur. Septic tanks contain bacteria that grow best in oxygen-poor conditions. These bacteria carry out a portion of the treatment process by converting most solids into liquids and gases. Bacteria that require oxygen thrive in the drainfield and complete the treatment process begun in the septic tank. If the septic tank is working well, the remaining partially treated wastewater, referred to as septic tank effluent, which flows out of the tank may be relatively clear, although it still has an odor and may carry disease organisms. [4]

Section 381.0065, F.S., states it is the intent of the Legislature that where a publicly owned or Investor owned sewerage system is not available, the Department of Health (DOH) shall issue permits for the construction, installation, modification, abandonment, or repair of onsite sewage treatment and disposal systems. The section requires that a person may not perform any of these actions without first obtaining a permit from the department. In issuing onsite system (septic tank) permits, the DOH has no statute or rule that specifically addresses designated coastal high hazard areas or DEP-established coastal construction control lines (CCCL), both of which are established to protect Florida's coastal system and coastal infrastructure and private property. Section 381.0065(4), F.S., states that DOH "shall not make the issuance of such [septic tank] permits contingent upon prior approval" by DEP. Because DOH has no authority to enforce DEP's statutes or rules about location of facilities in the

[3] http://www.doh.state.fl.us/environment/ostds/intro.htm

[4] http://www.doh.state.fl.us/environment/OSTDS/pdfiles/forms/brochure.pdf

coastal zone and has no authority of its own in this regard, onsite systems are often permitted seaward of structures, where they are most vulnerable to damage from storm surges.

Coastal High Hazard Study Committee
On September 7, 2005, the Governor issued Executive Order 05-178, appointing members to the Coastal High Hazard Study Committee, which was charged with studying and formulating recommendations for managing growth in Coastal High Hazard Areas, defined as the Category 1 hurricane evacuation zones. The Committee was appointed to evaluate and make recommendations to resolve problems exposed by the extraordinary hurricane seasons in 2004 and 2005.

Regional Hurricane Evacuation Studies
Section 252.35, F.S., assigns responsibility to the Division of Emergency Management (DEM) to maintain a comprehensive statewide program of emergency management. The division is required to prepare a comprehensive emergency management plan that is operations oriented. The plan must include specific regional and interregional planning provisions and promote intergovernmental coordination of evacuation activities. The division has the capability to conduct regional hurricane evacuation studies. Such studies include a computerized model run by the National Hurricane Center to estimate storm surge depths and winds resulting from historical, hypothetical, or predicted hurricanes taking into account:

- Pressure
- Size
- Forward speed
- Track
- Winds

This model is known as SLOSH (Sea, Lake, and Overland Surges from Hurricanes). Calculations are applied to a specific locale's shoreline, incorporating the unique bay and river configurations, water depths, bridges, roads, and other physical features to estimate storm surge.[5]

Another model utilized by the Division is The Arbiter of Storms model or TAOS. The TAOS model is an integrated hazards model that provides data at a higher resolution than the SLOSH model does for surge. According to DEM, the TAOS model enhances the local government's ability to do effective hazard mitigation planning. Currently, SLOSH model storm surge calculations are not available at the same resolution statewide, or in a standard Geographical Information System (GIS) format. The TAOS model can perform calculations of storm hazard risk for the entire state at one time, and the results are available for addition to the GIS data base.

The SLOSH model calculates storm surge for an area of coastline called a basin. In order to provide complete coverage for the state's coastline, 11 separate SLOSH basins and models must be created and run. Unlike the SLOSH model which only calculates for storm surge, the TAOS model will also calculate an estimate of storm surge, wave height, maximum winds, inland flooding, debris and structural damage for the entire state at once. Furthermore, the model resolution for TAOS with respect to underwater and on-land data is much finer than for the SLOSH model. No computer model is perfectly accurate and calculations of storm surge from both TAOS and SLOSH contain some degree of uncertainty.[6]

Periodic hurricane evacuation studies are required because of changing population dynamics. Populations and the existing transportation network define the speed with which an evacuation may be conducted. Regional hurricane evacuation studies are able to determine recommended timing intervals used to control a sequenced evacuation by locality.

[5] http://www.nhc.noaa.gov/HAW2/english/surge/slosh_printer.shtml and http://www.floridadisaster.org/hurricane_aware/english/surge/x_slosh.htm
[6] http://www.floridadisaster.org/brm/lms/faq_taosslosh.htm

Effects of Proposed Changes

The bill authorizes the Department of Environmental Protection (DEP) to revoke the authority for the emergency installation of a rigid coastal armoring structure by an agency, political subdivision, or municipality if such installation conflicts with certain public policies regarding adjacent properties, public access, or damage to vegetation or nesting turtle populations.

The bill defines Coastal High Hazard Area (CHHA), which is the area below the elevation of the category 1 storm surge line, and provides guidance for a local government that amends its comprehensive plan to increase population densities in a CHHA. The bill requires that the coastal management element of a local government's comprehensive plan contain a designation of a CHHA.

The bill provides a proposed comprehensive plan amendment must be in compliance with state coastal high hazard standards if the adopted level of service for out-of-county hurricane evacuation is maintained; or the 12-hour evacuation time to a shelter is maintained and there is sufficient shelter space available; or appropriate mitigation will ensure that the level of service for out-of-county hurricane evacuation is maintained; or mitigation will ensure that the 12-hour evacuation time to a shelter is maintained and there is sufficient shelter space available.

Mitigation may not exceed the amount required for a developer to accommodate impacts reasonably attributable to the development, and must include:

- Payment of money
- Contribution of land and construction of hurricane shelters and transportation facilities

For those local governments that have not established a level of service for out of county hurricane evacuation by July 1, 2008, the level of service may be no greater than 16 hours

The bill places a moratorium on the construction of new adult congregate living facilities, community residential homes, group homes, homes for the aged, hospitals, mobile home parks, or nursing homes within the coastal high hazard area.

Local governments must amend their Future Land Use Map and coastal management element to include the new definition of coastal high hazard, the coastal high hazard map, and the appropriate mitigation strategies by July 1, 2008.

The bill requires for the Division of Emergency Management to manage the update of regional hurricane evacuation studies.

The bill prohibits the Department of Health from issuing a construction or repair permit for onsite sewage treatment and disposal systems located seaward of the coastal construction control line without receipt of a permit from the Department of Environmental Protection.

C. SECTION DIRECTORY:

Section 1. Amends subsection (3) of s. 161.085, F.S., providing that unless authority has been revoked by the DEP, an agency, political subdivision, or municipality having jurisdiction over the impacted area may install or authorize installation of a rigid coastal armoring structure. The DEP may revoke such authority if the DEP determines that the structure harms or interferes with the protection of the beach-dune system, adversely impacts adjacent properties, interferes with public beach access, or harms native coastal vegetation or nesting marine turtles or their hatchlings.

Sections 2 and 3. Amends paragraphs (d) and (h) of subsection (2) of section 163.3178, F.S. and adds subsection (9) to that section, to:

- Define Coastal High Hazard Area (CHHA), which is the area below the elevation of the category 1 storm surge line, and provides guidance for a local government that amends its comprehensive plan to increase population densities in a CHHA. The bill requires that the coastal management element of a local government's comprehensive plan contain a designation of a CHHA.

- Provide a proposed comprehensive plan amendment must be in compliance with state coastal high hazard standards if the adopted level of service for out-of-county hurricane evacuation is maintained; or the 12-hour evacuation time to a shelter is maintained and there is sufficient shelter space available; or appropriate mitigation will ensure that the level of service for out-of-county hurricane evacuation is maintained; or mitigation will ensure that the 12-hour evacuation time to a shelter is maintained and there is sufficient shelter space available.

- Limit mitigation so that such may not exceed the amount required for a developer to accommodate impacts reasonably attributable to the development. Mitigation must include:
    - Payment of money
    - Contribution of land and construction of hurricane shelters and transportation facilities

- Provide that for those local governments that have not established a level of service for out of county hurricane evacuation by July 1, 2008, the level of service shall be no greater than 16 hours

- Place a moratorium on the construction of new adult congregate living facilities, community residential homes, group homes, homes for the aged, hospitals, mobile home parks, or nursing homes within the coastal high hazard area.

- Require local governments to amend their Future Land Use Map and coastal management element to include the new definition of coastal high hazard, the coastal high hazard map, and the appropriate mitigation strategies by July 1, 2008.

- Direct the Division of Emergency Management to manage the update of regional hurricane evacuation studies. Such studies must be done in a consistent manner and using the methodology for modeling storm surge that is used by the National Hurricane Center.

Section 4. Amends subsection (4) of section 381.0065, F.S., to require the Department of Health to be in receipt of a coastal construction control line permit issued by the Department of Environmental Protection before issuing a permit for work on an onsite sewage treatment and disposal system seaward of the coastal construction control line.

Section 5. The bill provides for an effective date of July 1, 2006.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

   None.

2. Expenditures:

   Dune armoring: According to the DEP, the fiscal impact is indeterminate yet probably neutral overall. The legislation would save DEP staff resources and money expended on fixing the damage caused by improperly installed emergency armoring. Such armoring increases beach erosion and damages the beach and dune system, increasing the cost of restoration and recovery projects. The cost savings is impossible to estimate with any accuracy as the costs of beach recovery and restoration projects vary greatly depending on site-specific circumstances.

   The DOH reports no fiscal impact to the agency.

   Hurricane studies: The Division of Emergency Management currently conducts the type of studies required by this bill. Such studies are usually funded through federal sources and recurring state funding is not usually provided.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

   None.

2. Expenditures:

   According to the DEP, there would be no fiscal impact on local governments that properly use their authority to install or authorize emergency armoring.

   Certain local governments may spend an indeterminate amount of time and resources to amend their Future Land Use Map and coastal management element to include the new definition of coastal high hazard, the coastal high hazard map, and the appropriate mitigation strategies by July 1, 2008. According to the Association of Counties, the expense is not considered to be substantial.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Improved assurance of proper coastal armoring will save private property by preventing coastal erosion, likely saving insurance as well as property repair and replacement costs. These savings could be substantial but are indeterminate.

Indeterminate savings could accrue to homeowners whose onsite sewage systems are not washed away during storms because better consideration is given to proper siting.

If an amendment to a local government comprehensive plan raises the population density within a coastal high hazard area, developers will need to provide mitigation options for on-site sheltering or transportation out of harms way.

The bill places a moratorium on the construction of new adult congregate living facilities, community residential homes, group homes, homes for the aged, hospitals, mobile home parks, or nursing homes within the coastal high hazard area.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

   Not applicable because this bill does not appear to: require cities or counties to spend funds or take actions requiring the expenditure of funds; reduce the authority that cities or counties have to raise revenues in the aggregate; or reduce the percentage of a state tax shared with cities or counties.

2. Other:

   None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES

On April 5, 2006, the Committee on Environmental Regulation approved a strike all amendment offered by the bill sponsor. The strike all differs from the bill as originally filed as follows.

The amendment defines Coastal High Hazard Area (CHHA), which is the area below the elevation of the category 1 storm surge line, and provides guidance for a local government that amends its comprehensive plan to increase population densities in a CHHA. The amendment requires that the coastal management element of a local government's comprehensive plan contain a designation of a CHHA.

The amendment provides a proposed comprehensive plan amendment must be in compliance with state coastal high hazard standards if the adopted level of service for out-of-county hurricane evacuation is maintained; or the 12-hour evacuation time to a shelter is maintained and there is sufficient shelter space available; or appropriate mitigation will ensure that the level of service for out-of-county hurricane evacuation is maintained; or mitigation will ensure that the 12-hour evacuation time to a shelter is maintained and there is sufficient shelter space available.

Mitigation may not exceed the amount required for a developer to accommodate impacts reasonably attributable to the development, and must include:

- Payment of money
- Contribution of land and construction of hurricane shelters and transportation facilities

For those local governments that have not established a level of service for out of county hurricane evacuation by July 1, 2008, the level of service shall be no greater than 16 hours

The amendment places a moratorium on the construction of new adult congregate living facilities, community residential homes, group homes, homes for the aged, hospitals, mobile home parks, or nursing homes within the coastal high hazard area.

Local governments must amend their Future Land Use Map and coastal management element to include the new definition of coastal high hazard, the coastal high hazard map, and the appropriate mitigation strategies by July 1, 2008.

The amendment removes the provision in the original bill that required a real estate agent to disclosure that the property considered for purchase lies within a hurricane evacuation zone.

CHAMBER ACTION

The Environmental Regulation Committee recommends the following:

Council/Committee Substitute

Remove the entire bill and insert:

A bill to be entitled

An act relating to hazard mitigation for coastal redevelopment; amending s. 161.085, F.S.; specifying entities that are authorized to install or authorize installation of rigid coastal armoring structures; authorizing the Department of Environmental Protection to revoke certain authority; amending s. 163.3178, F.S.; defining the term "coastal high-hazard areas"; providing criteria for mitigation for certain comprehensive plan amendments; authorizing local governments to amend comprehensive plans to increase residential densities for certain properties; providing standards for certain comprehensive plan compliance; requiring local governments to adopt a certain level of service for out-of-county hurricane evacuation under certain circumstances; prohibiting new development of certain facilities in certain areas; providing a deadline for local governments to amend future land use maps; amending s. 163.3178, F.S.; requiring the Division of Emergency Management to manage

certain hurricane evacuation studies; requiring that such studies be performed in a specified manner; amending s. 381.0065, F.S.; requiring the issuance of certain permits by the Department of Health to be contingent upon the receipt of certain permits issued by the Department of Environmental Protection; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Subsection (3) of section 161.085, Florida Statutes, is amended, and subsection (8) is added to that section, to read:

161.085 Rigid coastal armoring structures.--

(3) If erosion occurs as a result of a storm event which threatens private structures or public infrastructure and a permit has not been issued pursuant to subsection (2), unless the authority has been revoked by order of the department pursuant to subsection (8), an ~~the~~ agency, political subdivision, or municipality having jurisdiction over the impacted area may install or authorize installation of rigid coastal armoring structures for the protection of private structures or public infrastructure, or take other measures to relieve the threat to private structures or public infrastructure as long as the following items are considered and incorporated into such emergency measures:

(a) Protection of the beach-dune system.

(b) Siting and design criteria for the protective structure.

(c) Impacts on adjacent properties.

(d) Preservation of public beach access.

(e) Protection of native coastal vegetation and nesting marine turtles and their hatchlings.

(8) If an agency, political subdivision, or municipality installs or authorizes installation of a rigid coastal armoring structure that does not comply with subsection (3), and if the department determines that the action harms or interferes with the protection of the beach-dune system, adversely impacts adjacent properties, interferes with public beach access, or harms native coastal vegetation or nesting marine turtles or their hatchlings, the department may revoke by order the authority of the agency, political subdivision, or municipality under subsection (3) to install or authorize the installation of rigid coastal armoring structures.

Section 2. Paragraph (h) of subsection (2) of section 163.3178, Florida Statutes, is amended, and subsection (9) is added to that section, to read:

163.3178 Coastal management.--

(2) Each coastal management element required by s. 163.3177(6)(g) shall be based on studies, surveys, and data; be consistent with coastal resource plans prepared and adopted pursuant to general or special law; and contain:

(h) Designation of coastal high-hazard ~~coastal~~ areas and the criteria for mitigation for a comprehensive plan amendment in a coastal high-hazard area~~, which for uniformity and planning purposes herein, are defined as category 1 evacuation zones~~. The coastal high-hazard area is the area below the elevation of the

Category 1 storm surge line as established by a Sea, Lake and Overland Surges from Hurricanes (SLOSH) computerized storm surge model. The application for development ~~However, application of mitigation~~ and redevelopment policies, pursuant to s. 380.27(2), and any rules adopted thereunder, shall be at the discretion of local government.

(9)(a) A proposed comprehensive plan amendment shall be found in compliance with state coastal high-hazard standards pursuant to rules 9J-5.012(3)(b)(6) and 9J-5.012(3)(b)(7), Florida Administrative Code, if:

1. The adopted level of service for out-of-county hurricane evacuation is maintained; or

2. A 12-hour evacuation time to shelter is maintained and shelter space reasonably expected to accommodate the residents of the development contemplated by a proposed comprehensive plan amendment is available; or

3. Appropriate mitigation to satisfy the provisions of subparagraph 1. or subparagraph 2. is provided. Appropriate mitigation shall include, but not be limited to, payment of money, contribution of land, and construction of hurricane shelters and transportation facilities. Required mitigation shall not exceed the amount required for a developer to accommodate impacts reasonably attributable to its development.

(b) For those local governments that have not established a level of service for out-of-county hurricane evacuation by July 1, 2008, the level of service shall be no greater than 16 hours.

(c) No new adult congregate living facilities, community residential homes, group homes, homes for the aged, hospitals, or nursing homes shall be located within the coastal high-hazard area.

(d) This subsection shall become effective immediately and shall apply to all local governments. No later than July 1, 2008, local governments shall amend their future land use map and coastal management element to include the new definition of coastal high-hazard area, the coastal high-hazard map, and the appropriate mitigation strategies.

Section 3. Paragraph (d) of subsection (2) of section 163.3178, Florida Statutes, is amended to read:

163.3178 Coastal management.--

(2) Each coastal management element required by s. 163.3177(6)(g) shall be based on studies, surveys, and data; be consistent with coastal resource plans prepared and adopted pursuant to general or special law; and contain:

(d) A component which outlines principles for hazard mitigation and protection of human life against the effects of natural disaster, including population evacuation, which take into consideration the capability to safely evacuate the density of coastal population proposed in the future land use plan element in the event of an impending natural disaster. The Division of Emergency Management shall manage the update of the regional hurricane evacuation studies, ensure such studies are done in a consistent manner, and ensure that the methodology used for modeling storm surge is that used by the National Hurricane Center.

Section 4. Subsection (4) of section 381.0065, Florida Statutes, is amended to read:

381.0065 Onsite sewage treatment and disposal systems; regulation.--

(4) PERMITS; INSTALLATION; AND CONDITIONS.--A person may not construct, repair, modify, abandon, or operate an onsite sewage treatment and disposal system without first obtaining a permit approved by the department. The department may issue permits to carry out this section, but shall not make the issuance of such permits contingent upon prior approval by the Department of Environmental Protection, except that the issuance of a permit for work seaward of the coastal construction control line established under s. 161.053 shall be contingent upon receipt of any required coastal construction control line permit from the Department of Environmental Protection. A construction permit is valid for 18 months from the issuance date and may be extended by the department for one 90-day period under rules adopted by the department. A repair permit is valid for 90 days from the date of issuance. An operating permit must be obtained prior to the use of any aerobic treatment unit or if the establishment generates commercial waste. Buildings or establishments that use an aerobic treatment unit or generate commercial waste shall be inspected by the department at least annually to assure compliance with the terms of the operating permit. The operating permit for a commercial wastewater system is valid for 1 year from the date of issuance and must be renewed annually. The operating permit for an aerobic treatment unit is valid for 2 years from the date of issuance and must be

renewed every 2 years. If all information pertaining to the siting, location, and installation conditions or repair of an onsite sewage treatment and disposal system remains the same, a construction or repair permit for the onsite sewage treatment and disposal system may be transferred to another person, if the transferee files, within 60 days after the transfer of ownership, an amended application providing all corrected information and proof of ownership of the property. There is no fee associated with the processing of this supplemental information. A person may not contract to construct, modify, alter, repair, service, abandon, or maintain any portion of an onsite sewage treatment and disposal system without being registered under part III of chapter 489. A property owner who personally performs construction, maintenance, or repairs to a system serving his or her own owner-occupied single-family residence is exempt from registration requirements for performing such construction, maintenance, or repairs on that residence, but is subject to all permitting requirements. A municipality or political subdivision of the state may not issue a building or plumbing permit for any building that requires the use of an onsite sewage treatment and disposal system unless the owner or builder has received a construction permit for such system from the department. A building or structure may not be occupied and a municipality, political subdivision, or any state or federal agency may not authorize occupancy until the department approves the final installation of the onsite sewage treatment and disposal system. A municipality or political subdivision of the state may not approve any change in occupancy

or tenancy of a building that uses an onsite sewage treatment and disposal system until the department has reviewed the use of the system with the proposed change, approved the change, and amended the operating permit.

(a) Subdivisions and lots in which each lot has a minimum area of at least one-half acre and either a minimum dimension of 100 feet or a mean of at least 100 feet of the side bordering the street and the distance formed by a line parallel to the side bordering the street drawn between the two most distant points of the remainder of the lot may be developed with a water system regulated under s. 381.0062 and onsite sewage treatment and disposal systems, provided the projected daily sewage flow does not exceed an average of 1,500 gallons per acre per day, and provided satisfactory drinking water can be obtained and all distance and setback, soil condition, water table elevation, and other related requirements of this section and rules adopted under this section can be met.

(b) Subdivisions and lots using a public water system as defined in s. 403.852 may use onsite sewage treatment and disposal systems, provided there are no more than four lots per acre, provided the projected daily sewage flow does not exceed an average of 2,500 gallons per acre per day, and provided that all distance and setback, soil condition, water table elevation, and other related requirements that are generally applicable to the use of onsite sewage treatment and disposal systems are met.

(c) Notwithstanding the provisions of paragraphs (a) and (b), for subdivisions platted of record on or before October 1, 1991, when a developer or other appropriate entity has

previously made or makes provisions, including financial assurances or other commitments, acceptable to the Department of Health, that a central water system will be installed by a regulated public utility based on a density formula, private potable wells may be used with onsite sewage treatment and disposal systems until the agreed-upon densities are reached. The department may consider assurances filed with the Department of Business and Professional Regulation under chapter 498 in determining the adequacy of the financial assurance required by this paragraph. In a subdivision regulated by this paragraph, the average daily sewage flow may not exceed 2,500 gallons per acre per day. This section does not affect the validity of existing prior agreements. After October 1, 1991, the exception provided under this paragraph is not available to a developer or other appropriate entity.

(d) Paragraphs (a) and (b) do not apply to any proposed residential subdivision with more than 50 lots or to any proposed commercial subdivision with more than 5 lots where a publicly owned or investor-owned sewerage system is available. It is the intent of this paragraph not to allow development of additional proposed subdivisions in order to evade the requirements of this paragraph.

(e) Onsite sewage treatment and disposal systems must not be placed closer than:

1. Seventy-five feet from a private potable well.

2. Two hundred feet from a public potable well serving a residential or nonresidential establishment having a total sewage flow of greater than 2,000 gallons per day.

3. One hundred feet from a public potable well serving a residential or nonresidential establishment having a total sewage flow of less than or equal to 2,000 gallons per day.

4. Fifty feet from any nonpotable well.

5. Ten feet from any storm sewer pipe, to the maximum extent possible, but in no instance shall the setback be less than 5 feet.

6. Seventy-five feet from the mean high-water line of a tidally influenced surface water body.

7. Seventy-five feet from the mean annual flood line of a permanent nontidal surface water body.

8. Fifteen feet from the design high-water line of retention areas, detention areas, or swales designed to contain standing or flowing water for less than 72 hours after a rainfall or the design high-water level of normally dry drainage ditches or normally dry individual lot stormwater retention areas.

(f) Except as provided under paragraphs (e) and (t), no limitations shall be imposed by rule, relating to the distance between an onsite disposal system and any area that either permanently or temporarily has visible surface water.

(g) All provisions of this section and rules adopted under this section relating to soil condition, water table elevation, distance, and other setback requirements must be equally applied to all lots, with the following exceptions:

1. Any residential lot that was platted and recorded on or after January 1, 1972, or that is part of a residential subdivision that was approved by the appropriate permitting

agency on or after January 1, 1972, and that was eligible for an onsite sewage treatment and disposal system construction permit on the date of such platting and recording or approval shall be eligible for an onsite sewage treatment and disposal system construction permit, regardless of when the application for a permit is made. If rules in effect at the time the permit application is filed cannot be met, residential lots platted and recorded or approved on or after January 1, 1972, shall, to the maximum extent possible, comply with the rules in effect at the time the permit application is filed. At a minimum, however, those residential lots platted and recorded or approved on or after January 1, 1972, but before January 1, 1983, shall comply with those rules in effect on January 1, 1983, and those residential lots platted and recorded or approved on or after January 1, 1983, shall comply with those rules in effect at the time of such platting and recording or approval. In determining the maximum extent of compliance with current rules that is possible, the department shall allow structures and appurtenances thereto which were authorized at the time such lots were platted and recorded or approved.

2. Lots platted before 1972 are subject to a 50-foot minimum surface water setback and are not subject to lot size requirements. The projected daily flow for onsite sewage treatment and disposal systems for lots platted before 1972 may not exceed:

a. Two thousand five hundred gallons per acre per day for lots served by public water systems as defined in s. 403.852.

b. One thousand five hundred gallons per acre per day for lots served by water systems regulated under s. 381.0062.

(h)1. The department may grant variances in hardship cases which may be less restrictive than the provisions specified in this section. If a variance is granted and the onsite sewage treatment and disposal system construction permit has been issued, the variance may be transferred with the system construction permit, if the transferee files, within 60 days after the transfer of ownership, an amended construction permit application providing all corrected information and proof of ownership of the property and if the same variance would have been required for the new owner of the property as was originally granted to the original applicant for the variance. There is no fee associated with the processing of this supplemental information. A variance may not be granted under this section until the department is satisfied that:

a. The hardship was not caused intentionally by the action of the applicant;

b. No reasonable alternative, taking into consideration factors such as cost, exists for the treatment of the sewage; and

c. The discharge from the onsite sewage treatment and disposal system will not adversely affect the health of the applicant or the public or significantly degrade the groundwater or surface waters.

Where soil conditions, water table elevation, and setback provisions are determined by the department to be satisfactory,

special consideration must be given to those lots platted before 1972.

2. The department shall appoint and staff a variance review and advisory committee, which shall meet monthly to recommend agency action on variance requests. The committee shall make its recommendations on variance requests at the meeting in which the application is scheduled for consideration, except for an extraordinary change in circumstances, the receipt of new information that raises new issues, or when the applicant requests an extension. The committee shall consider the criteria in subparagraph 1. in its recommended agency action on variance requests and shall also strive to allow property owners the full use of their land where possible. The committee consists of the following:

a. The Division Director for Environmental Health of the department or his or her designee.

b. A representative from the county health departments.

c. A representative from the home building industry recommended by the Florida Home Builders Association.

d. A representative from the septic tank industry recommended by the Florida Onsite Wastewater Association.

e. A representative from the Department of Environmental Protection.

f. A representative from the real estate industry who is also a developer in this state who develops lots using onsite sewage treatment and disposal systems, recommended by the Florida Association of Realtors.

g. A representative from the engineering profession recommended by the Florida Engineering Society.

Members shall be appointed for a term of 3 years, with such appointments being staggered so that the terms of no more than two members expire in any one year. Members shall serve without remuneration, but if requested, shall be reimbursed for per diem and travel expenses as provided in s. 112.061.

(i) A construction permit may not be issued for an onsite sewage treatment and disposal system in any area zoned or used for industrial or manufacturing purposes, or its equivalent, where a publicly owned or investor-owned sewage treatment system is available, or where a likelihood exists that the system will receive toxic, hazardous, or industrial waste. An existing onsite sewage treatment and disposal system may be repaired if a publicly owned or investor-owned sewerage system is not available within 500 feet of the building sewer stub-out and if system construction and operation standards can be met. This paragraph does not require publicly owned or investor-owned sewerage treatment systems to accept anything other than domestic wastewater.

1. A building located in an area zoned or used for industrial or manufacturing purposes, or its equivalent, when such building is served by an onsite sewage treatment and disposal system, must not be occupied until the owner or tenant has obtained written approval from the department. The department shall not grant approval when the proposed use of the

system is to dispose of toxic, hazardous, or industrial wastewater or toxic or hazardous chemicals.

2. Each person who owns or operates a business or facility in an area zoned or used for industrial or manufacturing purposes, or its equivalent, or who owns or operates a business that has the potential to generate toxic, hazardous, or industrial wastewater or toxic or hazardous chemicals, and uses an onsite sewage treatment and disposal system that is installed on or after July 5, 1989, must obtain an annual system operating permit from the department. A person who owns or operates a business that uses an onsite sewage treatment and disposal system that was installed and approved before July 5, 1989, need not obtain a system operating permit. However, upon change of ownership or tenancy, the new owner or operator must notify the department of the change, and the new owner or operator must obtain an annual system operating permit, regardless of the date that the system was installed or approved.

3. The department shall periodically review and evaluate the continued use of onsite sewage treatment and disposal systems in areas zoned or used for industrial or manufacturing purposes, or its equivalent, and may require the collection and analyses of samples from within and around such systems. If the department finds that toxic or hazardous chemicals or toxic, hazardous, or industrial wastewater have been or are being disposed of through an onsite sewage treatment and disposal system, the department shall initiate enforcement actions against the owner or tenant to ensure adequate cleanup, treatment, and disposal.

(j) An onsite sewage treatment and disposal system for a single-family residence that is designed by a professional engineer registered in the state and certified by such engineer as complying with performance criteria adopted by the department must be approved by the department subject to the following:

1. The performance criteria applicable to engineer-designed systems must be limited to those necessary to ensure that such systems do not adversely affect the public health or significantly degrade the groundwater or surface water. Such performance criteria shall include consideration of the quality of system effluent, the proposed total sewage flow per acre, wastewater treatment capabilities of the natural or replaced soil, water quality classification of the potential surface-water-receiving body, and the structural and maintenance viability of the system for the treatment of domestic wastewater. However, performance criteria shall address only the performance of a system and not a system's design.

2. The technical review and advisory panel shall assist the department in the development of performance criteria applicable to engineer-designed systems.

3. A person electing to utilize an engineer-designed system shall, upon completion of the system design, submit such design, certified by a registered professional engineer, to the county health department. The county health department may utilize an outside consultant to review the engineer-designed system, with the actual cost of such review to be borne by the applicant. Within 5 working days after receiving an engineer-designed system permit application, the county health department

shall request additional information if the application is not complete. Within 15 working days after receiving a complete application for an engineer-designed system, the county health department either shall issue the permit or, if it determines that the system does not comply with the performance criteria, shall notify the applicant of that determination and refer the application to the department for a determination as to whether the system should be approved, disapproved, or approved with modification. The department engineer's determination shall prevail over the action of the county health department. The applicant shall be notified in writing of the department's determination and of the applicant's rights to pursue a variance or seek review under the provisions of chapter 120.

4. The owner of an engineer-designed performance-based system must maintain a current maintenance service agreement with a maintenance entity permitted by the department. The maintenance entity shall obtain a biennial system operating permit from the department for each system under service contract. The department shall inspect the system at least annually, or on such periodic basis as the fee collected permits, and may collect system-effluent samples if appropriate to determine compliance with the performance criteria. The fee for the biennial operating permit shall be collected beginning with the second year of system operation. The maintenance entity shall inspect each system at least twice each year and shall report quarterly to the department on the number of systems inspected and serviced.

5. If an engineer-designed system fails to properly function or fails to meet performance standards, the system shall be re-engineered, if necessary, to bring the system into compliance with the provisions of this section.

(k) An innovative system may be approved in conjunction with an engineer-designed site-specific system which is certified by the engineer to meet the performance-based criteria adopted by the department.

(l) For the Florida Keys, the department shall adopt a special rule for the construction, installation, modification, operation, repair, maintenance, and performance of onsite sewage treatment and disposal systems which considers the unique soil conditions and which considers water table elevations, densities, and setback requirements. On lots where a setback distance of 75 feet from surface waters, saltmarsh, and buttonwood association habitat areas cannot be met, an injection well, approved and permitted by the department, may be used for disposal of effluent from onsite sewage treatment and disposal systems.

(m) No product sold in the state for use in onsite sewage treatment and disposal systems may contain any substance in concentrations or amounts that would interfere with or prevent the successful operation of such system, or that would cause discharges from such systems to violate applicable water quality standards. The department shall publish criteria for products known or expected to meet the conditions of this paragraph. In the event a product does not meet such criteria, such product

may be sold if the manufacturer satisfactorily demonstrates to the department that the conditions of this paragraph are met.

(n) Evaluations for determining the seasonal high-water table elevations or the suitability of soils for the use of a new onsite sewage treatment and disposal system shall be performed by department personnel, professional engineers registered in the state, or such other persons with expertise, as defined by rule, in making such evaluations. Evaluations for determining mean annual flood lines shall be performed by those persons identified in paragraph (2)(i). The department shall accept evaluations submitted by professional engineers and such other persons as meet the expertise established by this section or by rule unless the department has a reasonable scientific basis for questioning the accuracy or completeness of the evaluation.

(o) The department shall appoint a research review and advisory committee, which shall meet at least semiannually. The committee shall advise the department on directions for new research, review and rank proposals for research contracts, and review draft research reports and make comments. The committee is comprised of:

1. A representative of the Division of Environmental Health of the Department of Health.

2. A representative from the septic tank industry.

3. A representative from the home building industry.

4. A representative from an environmental interest group.

5. A representative from the State University System, from a department knowledgeable about onsite sewage treatment and disposal systems.

6. A professional engineer registered in this state who has work experience in onsite sewage treatment and disposal systems.

7. A representative from the real estate profession.

8. A representative from the restaurant industry.

9. A consumer.

Members shall be appointed for a term of 3 years, with the appointments being staggered so that the terms of no more than four members expire in any one year. Members shall serve without remuneration, but are entitled to reimbursement for per diem and travel expenses as provided in s. 112.061.

(p) An application for an onsite sewage treatment and disposal system permit shall be completed in full, signed by the owner or the owner's authorized representative, or by a contractor licensed under chapter 489, and shall be accompanied by all required exhibits and fees. No specific documentation of property ownership shall be required as a prerequisite to the review of an application or the issuance of a permit. The issuance of a permit does not constitute determination by the department of property ownership.

(q) The department may not require any form of subdivision analysis of property by an owner, developer, or subdivider prior to submission of an application for an onsite sewage treatment and disposal system.

(r) Nothing in this section limits the power of a municipality or county to enforce other laws for the protection of the public health and safety.

(s) In the siting of onsite sewage treatment and disposal systems, including drainfields, shoulders, and slopes, guttering shall not be required on single-family residential dwelling units for systems located greater than 5 feet from the roof drip line of the house. If guttering is used on residential dwelling units, the downspouts shall be directed away from the drainfield.

(t) Notwithstanding the provisions of subparagraph (g)1., onsite sewage treatment and disposal systems located in floodways of the Suwannee and Aucilla Rivers must adhere to the following requirements:

1. The absorption surface of the drainfield shall not be subject to flooding based on 10-year flood elevations. Provided, however, for lots or parcels created by the subdivision of land in accordance with applicable local government regulations prior to January 17, 1990, if an applicant cannot construct a drainfield system with the absorption surface of the drainfield at an elevation equal to or above 10-year flood elevation, the department shall issue a permit for an onsite sewage treatment and disposal system within the 10-year floodplain of rivers, streams, and other bodies of flowing water if all of the following criteria are met:

a. The lot is at least one-half acre in size;

b. The bottom of the drainfield is at least 36 inches above the 2-year flood elevation; and

c. The applicant installs either: a waterless, incinerating, or organic waste composting toilet and a graywater system and drainfield in accordance with department rules; an aerobic treatment unit and drainfield in accordance with department rules; a system approved by the State Health Office that is capable of reducing effluent nitrate by at least 50 percent; or a system approved by the county health department pursuant to department rule other than a system using alternative drainfield materials. The United States Department of Agriculture Soil Conservation Service soil maps, State of Florida Water Management District data, and Federal Emergency Management Agency Flood Insurance maps are resources that shall be used to identify flood-prone areas.

2. The use of fill or mounding to elevate a drainfield system out of the 10-year floodplain of rivers, streams, or other bodies of flowing water shall not be permitted if such a system lies within a regulatory floodway of the Suwannee and Aucilla Rivers. In cases where the 10-year flood elevation does not coincide with the boundaries of the regulatory floodway, the regulatory floodway will be considered for the purposes of this subsection to extend at a minimum to the 10-year flood elevation.

(u) The owner of an aerobic treatment unit system shall maintain a current maintenance service agreement with an aerobic treatment unit maintenance entity permitted by the department. The maintenance entity shall obtain a system operating permit from the department for each aerobic treatment unit under service contract. The maintenance entity shall inspect each

aerobic treatment unit system at least twice each year and shall report quarterly to the department on the number of aerobic treatment unit systems inspected and serviced. The owner shall allow the department to inspect during reasonable hours each aerobic treatment unit system at least annually, and such inspection may include collection and analysis of system-effluent samples for performance criteria established by rule of the department.

(v) The department may require the submission of detailed system construction plans that are prepared by a professional engineer registered in this state. The department shall establish by rule criteria for determining when such a submission is required.

Section 5. This act shall take effect upon becoming a law.

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. 1

Bill No. **HB 1359 CS**

COUNCIL/COMMITTEE ACTION

ADOPTED	__ (Y/N)
ADOPTED AS AMENDED	__ (Y/N)
ADOPTED W/O OBJECTION	__ (Y/N)
FAILED TO ADOPT	__ (Y/N)
WITHDRAWN	__ (Y/N)
OTHER	_____

Council/Committee hearing bill: State Resources Council

Representatives Benson & Coley offered the following:

Amendment (with title amendment)

Insert between line 32 and 33:

Section 1. Subsection (2) of section 161.021, Florida Statutes, is amended, present subsections (8), (9), and (10) of that section are redesignated as subsections (10), (11), and (12), respectively, and new subsections (8) and (9) are added to that section, to read:

161.021 Definitions.--In construing these statutes, where the context does not clearly indicate otherwise, the word, phrase, or term:

(2) "Beach and shore preservation," "erosion control, beach preservation and hurricane protection," "beach erosion control" and "erosion control" includes, but is not limited to, erosion control, hurricane protection, coastal flood control, dune restoration, the use of dune stabilization or restoration structures, shoreline and offshore rehabilitation, and regulation of work and activities likely to affect the physical condition of the beach or shore.

(8) "Dune restoration" means the placement of native or beach-compatible sand, either alone or together with a dune stabilization or restoration structure, in order to stabilize, protect, or restore a dune to a natural appearance and functioning condition and provide storm protection for upland properties.

(9) "Dune stabilization or restoration structure" means a sloping subsurface core covered with native or beach-compatible sand and native vegetation designed to stabilize, protect, or restore the dune to a natural appearance and functioning condition, including a sand-filled geosynthetic container or other soft protection system.

Section 2. Section 161.084, Florida Statutes, is created to read:

161.084 Dune stabilization or restoration structures.--

(1) The department shall examine, study, and issue permits for the installation of dune stabilization or restoration structures as an alternative method for dealing with coastal erosion and to avoid the permanent loss of dunes or beaches, the scouring or erosion of adjacent property, and loss of habitat for nesting marine turtles.

(2) The department may issue permits for the use of dune stabilization or restoration structures for the purpose of preventing erosion or restoring the beach-dune system following critical erosion.

(3) If a storm event occurs which causes critical erosion to the beach-dune system and a permit has not been issued pursuant to subsection (2), the department, political subdivision, or municipality may install or authorize the installation of dune stabilization or restoration structures as

an emergency response measure in order to stabilize, protect, or restore the beach-dune system, so long as the dune stabilization or restoration structure:

(a) Is installed in a segment that is designated by the department as critically eroded, is vulnerable to becoming critically eroded due to a 25-year-interval storm, or is located between critically eroded segments of the beach-dune system and inclusion is necessary for design purposes or continuity of management of the beach-dune system.

(b) Is installed in a subsurface site and covered with 3 feet of native or beach-compatible sand and native dune-stabilizing vegetation.

(c) Is sited as far landward as practicable in order to minimize excavation of the beach and frontal dune, impacts to existing native coastal vegetation, and impacts to adjacent properties that continue to provide adequate protection for the dune and upland structures, if any.

(d) Promotes scenery that is compatible with recreation and tourism.

(e) Provides a gently sloping angle having a seaward surface that is no steeper than 3 feet horizontal to 1 foot vertical.

(f) Does not materially impede access by the public or marine life.

(g) Provides toe scour protection to prevent the structure and the beach-dune system from being undermined by further erosion.

(h) Is designed to facilitate easy removal if it ceases to function due to irreparable damage and causes significant adverse impact.

(i) Is designed to minimize significant adverse impact to marine turtles and turtle hatchlings, consistent with s. 370.12.

(4) In order to encourage landowner participation in the long-term stabilization, restoration, and protection of the beach-dune system through a predictable and flexible permitting process, the department and other permitting agencies shall issue permits for subsurface dune stabilization or restoration structures if the proposed activity substantially complies with the requirements set forth in paragraphs (3)(a)-(i).

(5) A permitting agency shall notify the department if it installs or authorizes the installation of any dune stabilization or restoration structures within its jurisdiction. The department may delegate its permitting, supervisory, and regulatory authority to authorize a political subdivision or municipality to permit, supervise, and regulate such dune stabilization or restoration structure pursuant to s. 161.053.

(6) The department may require any engineering certifications that are necessary in order to ensure the adequacy of the design and construction of permitted projects.

(7) The department shall use clearly defined scientific principles as the basis for including any biological or environmental monitoring conditions in the permit requirements, denying any permit application, or accepting any engineering evidence provided by a coastal engineer.

(8) The department shall adopt rules to administer this section.

Section 3. This act shall take effect upon becoming a law.

========== T I T L E A M E N D M E N T ==========

Remove line 7 and insert:

redevelopment; amending s. 161.021, F.S.; redefining various terms to include the use of dune stabilization or restoration structures within activities intended to preserve and rehabilitate the beach or shore; defining the terms "dune restoration" and "dune stabilization or restoration structure"; creating s. 161.084, F.S.; requiring the Department of Environmental Protection to examine and issue permits for the installation of dune stabilization or restoration structures; providing for the department, a political subdivision, or a municipality to install a dune stabilization or restoration structure without a permit following a storm event that causes critical erosion; providing requirements for such installation; requiring that the department be notified of such installation; authorizing the department to delegate its regulatory authority to a political subdivision or municipality with respect to a dune stabilization or restoration structure; authorizing the department to require certain engineering certifications; providing standards for permitting requirements; amending s. 161.085, F.S.; specifying

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. 2

Bill No. **HB 1359 CS**

COUNCIL/COMMITTEE ACTION

ADOPTED	__ (Y/N)
ADOPTED AS AMENDED	__ (Y/N)
ADOPTED W/O OBJECTION	__ (Y/N)
FAILED TO ADOPT	__ (Y/N)
WITHDRAWN	__ (Y/N)
OTHER	_____

Council/Committee hearing bill: State Resources Council

Representatives Benson offered the following:

Amendment (with title amendment)

Between line(s) 616 and 617 and insert:

Section 5. Subsections (2) and (3) of section 163.336, Florida Statutes, are amended to read:

163.336 Coastal resort area redevelopment pilot project.--

(2) PILOT PROJECT ADMINISTRATION.--

(a) To be eligible to participate in this pilot project, all or a portion of the area must be within:

1. The coastal building zone as defined in s. 161.54; and

2. A community redevelopment area, enterprise zone, brownfield area, empowerment zone, or other such economically deprived areas as designated by the county or municipality with jurisdiction over the area.

(b) Local governments are encouraged to use the full range of economic and tax incentives available to facilitate and promote redevelopment and revitalization within the pilot project areas.

(c) The Office of the Governor, Department of Environmental Protection, and the Department of Community Affairs are directed to provide technical assistance to expedite permitting for redevelopment projects and construction activities within the pilot project areas consistent with the principles, processes, and timeframes provided in s. 403.973.

(d) The Department of Environmental Protection shall exempt construction activities within the pilot project area in locations seaward of a coastal construction control line and landward of existing armoring from certain siting and design criteria pursuant to s. 161.053. However, such exemption shall not be deemed to exempt property within the pilot project area from applicable local land development regulations, including but not limited to, setback, side lot line, and lot coverage requirements. Such exemption shall apply to construction and redevelopment of structures involving the coverage, excavation, and impervious surface criteria of s. 161.053, and related adopted rules, as follows:

1. This review by the department of applications for permits for coastal construction within the pilot project area must apply to construction and redevelopment of structures subject to the coverage, excavation, and impervious surface criteria of s. 161.053, and related adopted rules. It is the intent of these provisions that the pilot project area be enabled to redevelop in a manner which meets the economic needs of the area while preserving public safety and existing resources, including natural resources.

2. The criteria for review under s. 161.053 are applicable within the pilot project area, except that the structures within the pilot project area shall not be subject to specific shore

parallel coverage requirements and are allowed to exceed the 50 percent impervious surface requirement. In no case shall stormwater discharge be allowed onto, or seaward of, the frontal dune. Structures are also not bound by the restrictions on excavation unless the construction will adversely affect the integrity of the existing seawall or rigid coastal armoring structure or stability of the existing beach and dune system. It is specifically contemplated that underground structures, including garages, will be permitted. All beach-compatible material excavated under this subparagraph must be maintained on site seaward of the coastal construction control line. However, during the permit-review process, pursuant to s. 161.053, the department may favorably consider authorized sand placement on adjacent properties if the permittee has demonstrated every reasonable effort to effectively use all beach-quality material on site to enhance the beach and dune system, and has prepared a comprehensive plan for beach and dune nourishment for the adjoining area.

3. The review criteria in subparagraph 2. will apply to all construction within the pilot project area lying seaward of the coastal construction control line and landward of an existing viable seawall or rigid coastal armoring structure, if such construction is fronted by a seawall or rigid coastal armoring structure extending at least 1,000 feet without any interruptions other than beach access points. For purposes of this section, a viable seawall or rigid coastal armoring structure is a structure that has not deteriorated, dilapidated, or been damaged to such a degree that it no longer provides adequate protection to the upland property when considering the following criteria, including, but not limited to:

a. The top must be at or above the still water level, including setup, for the design storm of 30-year return storm plus the breaking wave calculated at its highest achievable level based on the maximum eroded beach profile and highest surge level combination, and must be high enough to preclude runup overtopping;

b. The armoring must be stable under the design storm of 30-year return storm, including maximum localized scour, with adequate penetration; and

c. The armoring must have sufficient continuity or return walls to prevent flooding under the design storm of 30-year return storm from impacting the proposed construction.

4. Where there exists a continuous line of rigid coastal armoring structure on either side of unarmored property and the adjacent line of rigid coastal armoring structures are having an adverse effect on or threaten the unarmored property, and the gap does not exceed 100 feet, the department may grant the necessary permits under s. 161.085 to close the gap.

5. Structures approved pursuant to this section shall not cause flooding of or result in adverse impacts to existing upland structures or properties and shall comply with all other requirements of s. 161.053 and its implementing rules.

6. Where there exists a continuous line of viable rigid coastal armoring structure on either side of a nonviable rigid coastal armoring structure, the department shall grant the necessary permits under s. 161.085 to replace such nonviable rigid coastal armoring structure with a viable rigid coastal armoring structure as defined in this section. This shall not apply to rigid coastal armoring structures constructed after May

1, 1998, unless such structures have been permitted pursuant to s. 161.085(2).

(3) PILOT PROJECT EXPIRATION.--The authorization for the pilot project and the provisions of this section expire December 31, 2014 ~~2006~~. The department and affected local governments shall provide for an independent analysis of the economic value and environmental impact of the pilot project and provide a report to the Legislature on or before February 1, 2008. ~~The Legislature shall review these requirements before their scheduled expiration.~~

========== T I T L E A M E N D M E N T ==========

Remove line 26 and insert:

163.336, F.S.; revising the requirements for the placement of beach-compatible material that is excavated during the coastal resort area redevelopment pilot project; extending the expiration date of this pilot project; requiring a report; amending s. 381.0065, F.S.; requiring the issuance of certain permits

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. 3

Bill No. **HB 1359 CS**

COUNCIL/COMMITTEE ACTION

ADOPTED	__ (Y/N)
ADOPTED AS AMENDED	__ (Y/N)
ADOPTED W/O OBJECTION	__ (Y/N)
FAILED TO ADOPT	__ (Y/N)
WITHDRAWN	__ (Y/N)
OTHER	_____

Council/Committee hearing bill: State Resources Council

Representative Benson offered the following:

Amendment (with title amendment)

Remove lines 107-110

========== T I T L E A M E N D M E N T ==========

Remove lines 20-21 and insert:

Providing a deadline for local governments

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 7075 CS PCB AG 06-01 Department of Agriculture and Consumer Services
SPONSOR(S): Agriculture Committee
TIED BILLS: **IDEN./SIM. BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
Orig. Comm.: Agriculture Committee	6 Y, 0 N	Kaiser	Reese
1) Agriculture & Environment Appropriations Committee	11 Y, 0 N, w/CS	Davis	Dixon
2) State Resources Council		Kaiser	Hamby
3)			
4)			
5)			

SUMMARY ANALYSIS

HB 7075 addresses a variety of issues relating to the Department of Agriculture and Consumer Services. In regards to pest control, the bill amends the definition of "employee" to clarify this person is not independent of, but under the direct control of a licensee who provides compensation, supervision, and the means necessary to perform pest control for the licensee. The bill also requires the identification cardholder be an employee. Additionally, the bill amends the definition of "independent contractor" to be a person or company that meets at least one of the conditions of independent operation. The bill provides more flexibility in the development of rules to accommodate new types of pesticides used for preventive treatments of subterranean termites in new construction. And lastly, the bill expands the products a Limited Commercial Landscape Maintenance (LCLM) certificate holder may apply to include fungicides and allows the LCLM certificate holder to provide proof of insurance once he/she has passed the certification examination.

In regards to mosquito control, the bill clarifies that the exemption to regulation under the pest control law applies only to those programs established and operated in accordance with the provisions of the mosquito control law.

The bill provides authorization to the department to develop a Farm-to-Fuel initiative to market and promote the production and distribution of renewable energy from Florida-grown crops, agricultural wastes and residues, and other biomass. This could include a statewide information and education program aimed at educating the general public regarding the benefits of renewable energy and the use of alternative fuels. If developed, this initiative must be coordinated and implemented with input from the Department of Environmental Protection.

The bill renames the Florida Food Safety and Food Security Advisory Council as the Florida Food Safety and Food Defense Advisory Council. The bill provides for all members of the Soil and Water Conservation Council to be voting members. The bill removes the words "Form 51" in reference to the Rabies Vaccination Certificate to conform to federal law. The bill provides an exemption from food inspection for cane syrup. The bill includes a provision making it a felony to trespass on an agricultural chemicals manufacturing facility that is legally posted. And lastly, the bill designates the agricultural inspection station in Escambia County as the Austin Dewey Gay Agricultural Inspection station.

The bill has an indeterminate but minimal fiscal impact on state government. The effective date of this legislation is July 1, 2006.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Promote personal responsibility: By requiring all identification cardholders to be employees of a pest control business licensee, only persons who are adequately trained and supervised may apply pest control substances.

B. EFFECT OF PROPOSED CHANGES:

Pest Control

Currently, each employee who performs pest control for a pest control licensee in Florida is required[1] to have an identification card issued by the Department of Agriculture and Consumer Services (department). Additionally, the law requires the identification card holder to be an employee, as defined by s. 482.021(7), F.S., and prohibits independent contractors from being issued identification cards.[2]

The Bureau of Entomology and Pest Control (bureau), within the department reports that recent investigations have determined that an unknown number of business licensees have been obtaining identification cards for individuals who are operating as independent business entities. Independent business entities who secure their own clients, collect money for their services, and provide their own vehicles and equipment, operate without the level of supervision and training typical of identification cardholders who are truly employees of pest control licensees. The department fears the lack of supervision and training provided to independent business entities, as well as a lack of liability insurance, present a danger to public safety.

The current definition of independent contractor requires several elements of independent activity be present before disciplinary action can be taken against a business licensee and the identification card of the independent contractor can be revoked. The department reports this increases the level of difficulty for developing evidence for a disciplinary action, as well as allowing business licensees to continue to provide identification cards to independent contractors.

The bill amends the definition of "employee" to clarify this person is not independent of, but under the direct control of, a licensee who provides compensation, supervision, and the means necessary to perform pest control for the licensee. The bill also requires the identification cardholder be an employee, as defined in s. 482.021(7), F.S. Additionally, the bill amends the definition of "independent contractor" to be a person or company that meets at least one of the conditions of independent operation.

The department currently has rule-making authority[3] regarding the application of pesticides used in the preventive treatment for subterranean termites for new construction. This provision was established when the primary treatment was the application of large volumes of insecticides to the soil during construction. Since that time, new treatment methods have been developed, such as baiting systems, non-repellant termiticides, and direct application to wood. The bill provides more flexibility in the development of rules regarding these types of treatments.

Florida law[4] establishes a certification category for persons who wish to apply certain low-risk pesticides to plant beds and ornamentals as part of landscape maintenance activities. Only persons who acquire this certification are authorized to perform the application. To date, approximately 3,200

[1] s. 482.091(1)(a), F.S.
[2] "Independent contractor" is defined in s. 482.021(12), F.S.
[3] s. 482.051(5), F.S.
[4] s. 482.156, F.S.

Limited Commercial Landscape Maintenance (LCLM) certifications have been issued to persons who work in the landscape maintenance industry and apply pesticides as part of their services. Chapter 482, F.S., places restrictions on the areas and types of pesticides certificate holders may apply. As technology has improved and new products have been developed, current law limits the ability of the certificate holders to perform landscape maintenance activities properly. The bill expands the types of products the certificate holders may apply to include fungicides.

Additionally, current law requires those seeking certification to obtain proof of insurance **prior** to passing the examination. According to the department, this requirement places an undue burden on applicants. The department estimates approximately 30,000 persons in the industry require LCLM certification. Voluntary compliance is, in part, hindered by current statutory requirements. The bill amends current law to require proof of insurance **after** passing the examination. The department believes this will result in increased compliance with the Florida Structural Pest Control Act and increase the number of individuals who will benefit from the pesticide application and safety training provided as part of the certification process.

The bill eliminates an exemption allowing a yard worker to apply a pesticide at a property owner's residence using pesticides supplied by the property owner.

Mosquito Control

Mosquito control is, in general, regulated by Chapter 388, F.S. Section 482.211, F.S., deals with the establishment and regulation of mosquito control programs operated by local governments. According to the department, a number of private companies have recently begun advertising mosquito control application services for consumers.

The bill clarifies that the exemption to regulation under Chapter 482, F.S., applies only to those programs established and operated in accordance with the provisions of Chapter 388, F.S. The department believes this will prevent unlicensed and untrained operators from conducting pest control activities under the guise of mosquito control.

Florida Food Safety and Food Defense Advisory Council

During the 2003 legislative session, the Florida Food Safety and Food Security Advisory Council (council) was created. The council had previously existed as an *ad hoc* task force created by the Commissioner of Agriculture to ensure the safety of Florida's food supply in the aftermath of 9-11 and the Mad Cow disease outbreak in Europe. The council is composed of representatives from every facet of the food industry: production, processing, distribution, sales, consumers, food industry groups, experts in food safety, agencies charged with food safety oversight, and legislative representatives. The council provides a forum for presenting, investigating, and evaluating issues of current importance in food safety. During the course of its meetings, it came to the attention of the council that, in many nations, "food security" refers to maintaining an availability of an adequate supply of food. "Food defense" is used to refer to the "protection" of the food supply. The federal government is in the process of making the necessary changes to conform with those in use internationally and encourages states to do the same.

The bill renames the Florida Food Safety and Food Security Advisory Council as the Florida Food Safety and Food Defense Advisory Council.

Farm-to-Fuel

The United States Environmental Protection Agency (EPA) recently developed new standards paving the way for the Renewable Fuel Standard Program. This program focuses on reducing vehicle emissions and reducing the United States dependency on foreign energy sources by increasing the use of fuels produced from American crops by 2012. The new standards complement the Energy Policy Act of 2005, which requires that 2.78 percent of the gasoline sold or dispensed to U.S. motorists in

2006 be renewable fuel. Various renewable fuels can be used to meet the requirements of the program, including ethanol and bio-diesel.[5]

The bill provides authorization to the department to develop a Farm-to-Fuel initiative to market and promote the production and distribution of renewable energy from Florida-grown crops, agricultural wastes and residues, and other biomass. This could include a statewide information and education program aimed at educating the general public regarding the benefits of renewable energy and the use of alternative fuels. If developed, this initiative must be coordinated and implemented with input from the Department of Environmental Protection.

Food Safety
The department is charged with inspecting and permitting food processors and food establishments to ensure a safe food supply for the people of the state. On occasion, the department exempts certain food products from the inspection process when the product does not present a serious health hazard.

The bill provides an exemption from inspection for cane syrup produced in the state as long as the syrup is labeled with the producer's name and address, product type, net weight or volume of product, and the statement, "This product has not been produced in a facility inspected and permitted by the Florida Department of Agriculture and Consumer Services."

Soil and Water Conservation Council
Also during the 2003 legislative session, the Agricultural Water Policy Group was integrated into the Soil and Water Conservation Council (council) by adding twelve non-voting *ex officio* members. These members represented the same interest groups that were represented in the Water Policy Group and are appointed by recommendations from the various interest groups.

In the two years since the integration, the council has become more diverse with a high level of participation from all members, voting or not. At the recommendation of the chair of the council, and with the support of the Commissioner of Agriculture, the bill provides for all members of the council to be voting members.

Trespassing
Current law provides penalties for trespassing on certain agricultural facilities that are legally posted, such as commercial horticulture property and agriculture sites used for testing and research purposes. Recently, instances have been reported of trespassers at agricultural chemicals manufacturing facilities. However, because these facilities are patrolled by security guards who are not authorized to hold persons for offenses less than a felony, the trespassers are unable to be detained.

This legislation makes it a felony of the third degree to trespass on an agricultural chemicals manufacturing facility that is legally posted. The bill also provides a definition for "agricultural chemicals manufacturing facility."

Rabies Vaccination
Due to a change in forms at the federal level, it is necessary to amend current Florida statutes to reflect the change at the state level. The bill removes the words "Form 51" in reference to the Rabies Vaccination Certificate.

Implementation of Total Maximum Daily Loads (TMDLs)
In 2005, there was a significant rewrite to the Florida Watershed Restoration Act. During this rewrite, incentives related to TMDLs were unintentionally eliminated.

The bill corrects a cross-reference and makes other technical changes to reestablish the incentives. The bill further provides that there is a presumption of compliance with state water quality standards for

[5] www.florida-agriculture.com/farmtofuel

those research sites funded by the Department of Environmental Protection (DEP), a water management district, or the department to develop or demonstrate interim measures or best management practices.

Inspection Stations
The bill designates the agricultural inspection station in Escambia County as the "Austin Dewey Gay Memorial Agricultural Inspection Station" and directs the department to erect suitable markers.

C. SECTION DIRECTORY:

Section 1: Amends s. 403.067, F.S.; correcting a cross-reference and making technical changes related reestablishing incentives.

Section 2: Amends s. 482.021, F.S.; revising definitions.

Section 3: Amends s. 482.051, F.S.; revising requirements regarding rule adoption as it relates to pesticides for subterranean termites.

Section 4: Amends s. 482.091, F.S.; clarifying provisions related to identification cards for pest control personnel.

Section 5: Amends s. 482.156, F.S.; requiring certification of commercial landscape personnel; revising materials used; removing obsolete provisions relating to fees.

Section 6: Amends s. 482.211, F.S.; providing an exemption for local governments relating to mosquito control.

Section 7: Amends s. 500.033, F.S.; renaming the Florida Food Safety and Food Security Advisory Council.

Section 8: Amends s. 500.12, F.S.; providing an exemption from inspection for cane syrup with conditions.

Section 9: Creates s. 570.954, F.S.; authorizing a Farm-to-Fuel initiative between the Department of Agriculture and Consumer Services and the Department of Environmental Protection to market and promote the production and distribution of renewable energy.

Section 10: Amends s. 582.06, F.S.; revising the composition of the Soil and Water Conservation Council.

Section 11: Amends s. 810.09, F.S.; establishing a third degree felony for trespassing on an agricultural chemicals manufacturing facility with appropriate signage.

Section 12: Amends s. 810.011, F.S.; defines "agricultural chemicals manufacturing facility."

Section 13: Amends s. 828.30, F.S.; updating a reference to the Rabies Vaccination Certificate.

Section 14: Designates an agricultural inspection station in Escambia County and provides direction for markers.

Section 15: Repeals subsection (11) of s. 482.211, F.S.

Section 16: Provides an effective date of July 1, 2006.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

   None.

2. Expenditures:

   Indeterminate, minimal. See fiscal comments.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

   None

2. Expenditures:

   None

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

The Criminal Justice Impact Conference (CJIC) has not considered the prison bed impact, if any, of the third degree felony in the bill. The bill creates a third degree felony for trespassing on an agricultural chemicals manufacturing facility which contains appropriate signage. Typically, the CJIC estimates a third degree felony that does not change the offense severity ranking chart will have an insignificant prison bed impact, absent any significant prior criminal history. Probation, a likely non-prison sanction, has an indeterminate but probably minimal fiscal impact.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

   The bill does not require counties or municipalities to take an action requiring the expenditure of funds, does not reduce the authority that counties or municipalities have to raise revenues in the aggregate, and does not reduce the percentage of state tax shared with counties or municipalities.

2. Other:

   None

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None

IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES

On April 17, 2006, the Agriculture and Environment Appropriations Committee adopted a strike-all amendment and an amendment to the strike-all to HB 7075. The strike-all amendment:

- Changed the hours of classroom training for commercial landscapers from 8 to 6 and eliminated the requirement for being in the landscape business for 3 years as an eligibility requirement to sit for the examination;
- Clarified that the exemption for mosquito control also applies to programs established by a special act;
- Removed the Farm to Fuel program and tax credit from the bill;
- Included a provision making it a felony to trespass on an agricultural chemicals manufacturing facility that is legally posted;
- Corrected cross-references related to total maximum daily loads that were unintentionally eliminated during the rewrite of the Florida Watershed Restoration Act in 2005;
- Repealed an exemption allowing a yard worker to apply a pesticide at a property owner's residence using pesticides supplied by the property owner; and
- Designated the agricultural inspection station in Escambia County as the "Austin Dewey Gay Agricultural Inspection Station."

The amendment to the strike-all amendment authorizes the department to develop a Farm to Fuel initiative to enhance the market for and promote the production and distribution of renewable energy from Florida-grown crops, agricultural wastes and residues, and other biomass. This could include a statewide information and education program aimed at educating the general public regarding the benefits of renewable energy and the use of alternative fuels. If developed, this initiative must be coordinated and implemented with input from the Department of Environmental Protection.

The analysis is drawn to bill as amended.

CHAMBER ACTION

The Agriculture & Environment Appropriations Committee recommends the following:

Council/Committee Substitute

Remove the entire bill and insert:

A bill to be entitled

An act relating to the Department of Agriculture and Consumer Services; amending s. 403.067, F.S.; clarifying rulemaking authority relating to pollution reduction; granting presumption of compliance with water quality standards for certain research; releasing certain research from penalties relating to the discharge of pollutants; amending s. 482.021, F.S.; revising the definitions of the terms "employee" and "independent contractor" for purposes of pest control regulation; amending s. 482.051, F.S.; revising certain requirements of the department to adopt rules relating to the use of pesticides for preventing subterranean termites in new construction; amending s. 482.091, F.S.; clarifying provisions governing the performance of pest control services; amending s. 482.156, F.S.; requiring certification of individual commercial landscape maintenance personnel; revising the types of materials such personnel may use; removing obsolete

provisions relating to fees; revising requirements relating to proof of education and insurance; revising the amount of required continuing education; removing a requirement for certain business experience; amending s. 482.211, F.S.; clarifying exemption of certain mosquito control activities from regulation; amending s. 500.033, F.S.; renaming the Florida Food Safety and Food Security Advisory Council as the Florida Food Safety and Food Defense Advisory Council and revising duties accordingly; amending s. 500.12, F.S.; providing an exemption from certain food inspections by the department; creating s. 570.954, F.S.; authorizing the department, in consultation with the state energy office within the Department of Environmental Protection, to develop a farm-to-fuel initiative; providing purposes of the initiative; providing for a statewide information and education program; amending s. 582.06, F.S.; revising the membership of the Soil and Water Conservation Council; amending s. 810.09, F.S.; providing criminal penalties for trespassing on certain property; requiring warning signage; amending s. 810.011, F.S.; defining "agricultural chemicals manufacturing facility"; amending s. 828.30, F.S.; updating references to the Rabies Vaccination Certificate; designating the Austin Dewey Gay Memorial Agricultural Inspection Station in Escambia County; directing the department to erect suitable markers; repealing s. 482.211(11), F.S.; removing an exemption from ch 482, F.S., for a yard worker when applying pesticide to the

lawn or ornamental plants of an individual residential property owner under certain circumstances; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Paragraph (c) of subsection (7) and paragraph (b) of subsection (11) of section 403.067, Florida Statutes, are amended to read:

403.067 Establishment and implementation of total maximum daily loads.--

(7) DEVELOPMENT OF BASIN MANAGEMENT PLANS AND IMPLEMENTATION OF TOTAL MAXIMUM DAILY LOADS.--

(c) Best management practices.--

1. The department, in cooperation with the water management districts and other interested parties, as appropriate, may develop suitable interim measures, best management practices, or other measures necessary to achieve the level of pollution reduction established by the department for nonagricultural nonpoint pollutant sources in allocations developed pursuant to subsection (6) and this subsection. These practices and measures may be adopted by rule by the department and the water management districts pursuant to ss. 120.536(1) and 120.54, and, where adopted by rule, shall be implemented by those parties responsible for nonagricultural nonpoint source pollution.

2. The Department of Agriculture and Consumer Services may develop and adopt by rule pursuant to ss. 120.536(1) and 120.54

suitable interim measures, best management practices, or other measures necessary to achieve the level of pollution reduction established by the department for agricultural pollutant sources in allocations developed pursuant to subsection (6) and this subsection or for programs implemented pursuant to paragraph (11)(b). These practices and measures may be implemented by those parties responsible for agricultural pollutant sources and the department, the water management districts, and the Department of Agriculture and Consumer Services shall assist with implementation. In the process of developing and adopting rules for interim measures, best management practices, or other measures, the Department of Agriculture and Consumer Services shall consult with the department, the Department of Health, the water management districts, representatives from affected farming groups, and environmental group representatives. Such rules shall also incorporate provisions for a notice of intent to implement the practices and a system to assure the implementation of the practices, including recordkeeping requirements.

3. Where interim measures, best management practices, or other measures are adopted by rule, the effectiveness of such practices in achieving the levels of pollution reduction established in allocations developed by the department pursuant to subsection (6) and this subsection or in programs implemented pursuant to paragraph (11)(b) shall be verified at representative sites by the department. The department shall use best professional judgment in making the initial verification that the best management practices are reasonably expected to be

effective and, where applicable, shall notify the appropriate water management district or ~~and~~ the Department of Agriculture and Consumer Services of its initial verification prior to the adoption of a rule proposed pursuant to this paragraph. Implementation, in accordance with rules adopted under this paragraph, of practices that have been initially verified to be effective, or verified to be effective by monitoring at representative sites, by the department, shall provide a presumption of compliance with state water quality standards and release from the provisions of s. 376.307(5) for those pollutants addressed by the practices, and the department is not authorized to institute proceedings against the owner of the source of pollution to recover costs or damages associated with the contamination of surface water or groundwater caused by those pollutants. Research funded by the department, a water management district, or the Department of Agriculture and Consumer Services to develop or demonstrate interim measures or best management practices is granted a presumption of compliance with state water quality standards and release from the provisions of s. 376.307(5), which are limited to the research site for those pollutants addressed by the practices.

4. Where water quality problems are demonstrated, despite the appropriate implementation, operation, and maintenance of best management practices and other measures according to rules adopted under this paragraph, the department, a water management district, or the Department of Agriculture and Consumer Services, in consultation with the department, shall institute a reevaluation of the best management practice or other measure.

Should the reevaluation determine that the best management practice or other measure requires modification, the department, a water management district, or the Department of Agriculture and Consumer Services, as appropriate, shall revise the rule to require implementation of the modified practice within a reasonable time period as specified in the rule.

5. Individual agricultural records relating to processes or methods of production, or relating to costs of production, profits, or other financial information which are otherwise not public records, which are reported to the Department of Agriculture and Consumer Services pursuant to subparagraphs 3. and 4. or pursuant to any rule adopted pursuant to subparagraph 2. shall be confidential and exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution. Upon request of the department or any water management district, the Department of Agriculture and Consumer Services shall make such individual agricultural records available to that agency, provided that the confidentiality specified by this subparagraph for such records is maintained. This subparagraph is subject to the Open Government Sunset Review Act of 1995 in accordance with s. 119.15, and shall stand repealed on October 2, 2006, unless reviewed and saved from repeal through reenactment by the Legislature.

6. The provisions of subparagraphs 1. and 2. shall not preclude the department or water management district from requiring compliance with water quality standards or with current best management practice requirements set forth in any applicable regulatory program authorized by law for the purpose

of protecting water quality. Additionally, subparagraphs 1. and 2. are applicable only to the extent that they do not conflict with any rules adopted by the department that are necessary to maintain a federally delegated or approved program.

(11) IMPLEMENTATION OF ADDITIONAL PROGRAMS.--

(b) Interim measures, best management practices, or other measures may be developed and voluntarily implemented pursuant to paragraph ~~subparagraphs~~ (7)(c)~~1. and 2.~~ for any water body or segment for which a total maximum daily load or allocation has not been established. The implementation of such pollution control programs may be considered by the department in the determination made pursuant to subsection (4).

Section 2. Subsections (7) and (12) of section 482.021, Florida Statutes, are amended to read:

482.021 Definitions.--For the purposes of this chapter, and unless otherwise required by the context, the term:

(7) "Employee" means a person who is employed by a licensee that provides that person with necessary training, supervision, pesticides, equipment, and insurance and who receives compensation from and is under the personal supervision and direct control of the licensee's certified operator in charge and ~~licensee~~ from whose ~~which~~ compensation ~~of~~ the licensee regularly deducts and matches federal insurance contributions and federal income and Social Security taxes.

(12) "Independent contractor" means an entity separate from the licensee that:

(a) Receives moneys from a customer which are deposited in a bank account other than that of the licensee;

(b) Owns or supplies its own service vehicle, equipment, and pesticides; ~~or~~

(c) Maintains a business operation, office, or support staff independent of the licensee's direct control;

(d) Pays its own operating expenses such as fuel, equipment, pesticides, and materials; or

(e) ~~(c)~~ Pays its own workers' ~~worker's~~ compensation as an independent contractor.

Section 3. Subsection (5) of section 482.051, Florida Statutes, is amended to read:

482.051 Rules.--The department has authority to adopt rules pursuant to ss. 120.536(1) and 120.54 to implement the provisions of this chapter. Prior to proposing the adoption of a rule, the department shall counsel with members of the pest control industry concerning the proposed rule. The department shall adopt rules for the protection of the health, safety, and welfare of pest control employees and the general public which require:

(5) That any pesticide used as the primary preventive treatment for ~~preconstruction treatments for the prevention of~~ subterranean termites in new construction be applied in the amount, concentration, and treatment area in accordance with the label; that a copy of the label of the registered pesticide being applied be carried in a vehicle at the site where the pesticide is being applied; and that the licensee maintain for 3 years the record of each preconstruction treatment, indicating the date of treatment, the location or address of the property treated, the total square footage of the structure treated, the

type of pesticide applied, the concentration of each substance in the mixture applied, and the total amount of pesticide applied.

Section 4. Paragraph (a) of subsection (2) of section 482.091, Florida Statutes, is amended to read:

482.091 Employee identification cards.--

(2)(a) An identification cardholder must be an employee of the licensee and work under the direction and supervision of the licensee's certified operator in charge and shall ~~may~~ not be an independent contractor. An identification cardholder shall operate ~~may perform~~ only ~~pest control services~~ out of, and ~~or~~ for customers assigned ~~arising~~ from, the licensee's licensed business location. An identification cardholder shall ~~may~~ not perform any pest control independently of and without the knowledge of the licensee and the licensee's certified operator in charge and shall ~~may~~ perform pest control only for the licensee's customers.

Section 5. Subsections (1), (2), and (3) of section 482.156, Florida Statutes, are amended to read:

482.156 Limited certification for commercial landscape maintenance personnel.--

(1) The department shall establish a limited certification category for individual commercial landscape maintenance personnel to authorize them to apply herbicides for controlling weeds in plant beds and to perform integrated pest management on ornamental plants using ~~the following materials:~~ insecticides and fungicides having the signal word "caution" but not having the word "warning" or "danger" on the label~~, insecticidal soaps,~~

~~horticultural oils, and bacillus thuringiensis formulations~~. The application equipment that may be used by a person certified pursuant to this section is limited to portable, handheld 3-gallon compressed air sprayers or backpack sprayers having no more than a 5-gallon capacity and does not include power equipment.

(2)(a) A person seeking limited certification under this section must pass an examination given by the department. Each application for examination must be accompanied by an examination fee set by rule of the department, in an amount of not more than $150 or less than $50~~; however, until a rule setting this fee is adopted by the department, the examination fee is $50~~. Prior to the department's issuing a limited certification under this section, each person applying ~~making application~~ for the certification ~~under this section~~ must furnish proof of having a certificate of insurance which states that the employer meets the requirements for minimum financial responsibility for bodily injury and property damage required by s. 482.071(4).

(b) To be eligible to take the examination, an applicant must have completed 6 ~~8~~ classroom hours of plant bed and ornamental continuing education training approved by the department and provide sufficient proof, according to criteria established by department rule, of having successfully completed the continuing education training ~~that the applicant has been in the landscape maintenance business for at least 3 years~~.

~~(b)~~ The department shall provide the appropriate reference materials for the examination and make the examination readily

accessible and available to applicants at least quarterly or as necessary in each county.

(3) An application for recertification under this section must be made annually and be accompanied by a recertification fee set by rule of the department, in an amount of not more than $75 or less than $25~~; however, until a rule setting this fee is adopted by the department, the fee for recertification is $25~~. The application must also be accompanied by proof of having completed 4 classroom hours of acceptable continuing education and the same proof of having a certificate of insurance as is required for issuance of this ~~initial~~ certification. After a grace period not exceeding 30 calendar days following the annual date that recertification is due, a late renewal charge of $50 shall be assessed and must be paid in addition to the renewal fee. Unless timely recertified, a certificate automatically expires 180 calendar days after the anniversary recertification date. Subsequent to such expiration, a certificate may be issued only upon successful reexamination and upon payment of the examination fees due.

Section 6. Subsection (7) of section 482.211, Florida Statutes, is amended to read:

482.211 Exemptions.--This chapter does not apply to:

(7) ~~Area~~ Mosquito control activities conducted by a local government or district established under chapter 388, by special act, or by a contractor of the local government or district.

Section 7. Section 500.033, Florida Statutes, is amended to read:

500.033 Florida Food Safety and Food Defense ~~Security~~ Advisory Council.--

(1) There is created the Florida Food Safety and Food Defense ~~Security~~ Advisory Council for the purpose of serving as a forum for presenting, investigating, and evaluating issues of current importance to the assurance of a safe and secure food supply to the citizens of Florida. The Florida Food Safety and Food Defense ~~Security~~ Advisory Council shall consist of, but not be limited to: the Commissioner of Agriculture or his or her designee; the Secretary of Health or his or her designee; the Secretary of Business and Professional Regulation or his or her designee; the person responsible for domestic security with the ~~Florida~~ Department of Law Enforcement; members representing the production, processing, distribution, and sale of foods; consumers or ~~and/or~~ members of citizens groups; representatives of ~~or~~ food industry groups; scientists or other experts in aspects of food safety from state universities; representatives from local, state, and federal agencies that are charged with responsibilities for food safety or food defense ~~security~~; the chairs of the Agriculture Committees of the Senate and the House of Representatives or their designees; and the chairs of the committees of the Senate and the House of Representatives with jurisdictional oversight of home defense issues or their designees. The Commissioner of Agriculture shall appoint the remaining members. The council shall make periodic reports to the Department of Agriculture and Consumer Services concerning findings and recommendations in the area of food safety and food defense ~~security~~.

(2) The council shall consider the development of appropriate advice or recommendations on food safety or food defense ~~security~~ issues. In the discharge of their duties, the council members may receive for review confidential data exempt from the provisions of s. 119.07(1); however, it is unlawful for any member of the council to use the data for his or her advantage or reveal the data to the general public.

Section 8. Paragraph (a) of subsection (1) of section 500.12, Florida Statutes, is amended to read:

500.12 Food permits; building permits.--

(1)(a) A food permit from the department is required of any person who operates a food establishment or retail food store, except:

1. Persons operating minor food outlets, including, but not limited to, video stores, that sell commercially prepackaged, nonpotentially hazardous candy, chewing gum, soda, or popcorn, provided the shelf space for those items does not exceed 12 linear feet and no other food is sold by the minor food outlet.

2. Persons subject to continuous, onsite federal or state inspection.

3. Persons selling only legumes in the shell, either parched, roasted, or boiled.

4. Persons producing and selling in the state 100-percent Florida sugar cane syrup directly to the consumer or at a roadside stand, farmers' market, or similar location, provided each container or bottle of syrup is labeled and the label states the producer's name and address, the product type, and

the net weight or volume of the product and includes the statement: "This product has not been produced in a facility inspected and permitted by the Florida Department of Agriculture and Consumer Services."

Section 9. Section 570.954, Florida Statutes, is created to read:

570.954 Farm-to-fuel initiative.--

(1) The department may develop a farm-to-fuel initiative to enhance the market for and promote the production and distribution of renewable energy from Florida-grown crops, agricultural wastes and residues, and other biomass and to enhance the value of agricultural products or expand agribusiness in the state.

(2) The department may conduct a statewide comprehensive information and education program aimed at educating the general public about the benefits of renewable energy and the use of alternative fuels.

(3) The department shall coordinate with and solicit the expertise of the state energy office within the Department of Environmental Protection when developing and implementing this initiative.

Section 10. Paragraphs (b) and (c) of subsection (1) of section 582.06, Florida Statutes, are amended to read:

582.06 Soil and Water Conservation Council; powers and duties.--

(1) COMPOSITION.--The Soil and Water Conservation Council is created in the Department of Agriculture and Consumer Services and shall be composed of 23 members as follows:

(b) Twelve ~~nonvoting ex officio~~ members shall include one representative each from the Department of Environmental Protection, the five water management districts, the Institute of Food and Agricultural Sciences at the University of Florida, the United States Department of Agriculture Natural Resources Conservation Service, the Florida Association of Counties, and the Florida League of Cities~~,~~ and two representatives of environmental interests.

(c) All members shall be appointed by the commissioner. ~~Ex officio~~ Members appointed pursuant to paragraph (b) shall be appointed by the commissioner from recommendations provided by the organization or interest represented.

Section 11. Paragraph (h) is added to subsection (2) of section 810.09, Florida Statutes, to read:

810.09 Trespass on property other than structure or conveyance.--

(2)

(h) The offender commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084, if the property trespassed upon is an agricultural chemicals manufacturing facility that is legally posted and identified in substantially the following manner: "THIS AREA IS A DESIGNATED AGRICULTURAL CHEMICALS MANUFACTURING FACILITY, AND ANYONE WHO TRESPASSES ON THIS PROPERTY COMMITS A FELONY."

Section 12. Subsection (12) is added to section 810.011, Florida Statutes, to read:

810.011 Definitions.--As used in this chapter:

(12) "Agricultural chemicals manufacturing facility" means any facility, and any properties or structures associated with the facility, used for the manufacture, processing, or storage of agricultural chemicals classified in Industry Group 287 contained in the Standard Industrial Classification Manual, 1987, as published by the Office of Management and Budget, Executive Office of the President.

Section 13. Subsection (3) of section 828.30, Florida Statutes, is amended to read:

828.30 Rabies vaccination of dogs, cats, and ferrets.--

(3) Upon vaccination against rabies, the licensed veterinarian shall provide the animal's owner and the animal control authority with a rabies vaccination certificate. Each animal control authority and veterinarian shall use the ~~Form 51,~~ "Rabies Vaccination Certificate~~,~~" of the National Association of State Public Health Veterinarians (NASPHV) or an equivalent form approved by the local government that contains all the information required by the NASPHV Rabies Vaccination Certificate ~~Form 51~~. The veterinarian who administers the rabies vaccine to an animal as required under this section may affix his or her signature stamp in lieu of an actual signature.

Section 14. Austin Dewey Gay Memorial Agricultural Inspection Station designated; Department of Agriculture and Consumer Services to erect suitable markers.--

(1) The agricultural inspection station located at or near mile marker 1 on Interstate Highway 10 in Escambia County is designated as the "Austin Dewey Gay Memorial Agricultural Inspection Station."

(2) The Department of Agriculture and Consumer Services is directed to erect suitable markers designating the Austin Dewey Gay Memorial Agricultural Inspection Station as described in subsection (1).

Section 15. Subsection (11) of section 482.211, Florida Statutes, is repealed.

Section 16. This act shall take effect July 1, 2006.

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. 1

Bill No. **HB 7075 CS**

COUNCIL/COMMITTEE ACTION

ADOPTED	__ (Y/N)
ADOPTED AS AMENDED	__ (Y/N)
ADOPTED W/O OBJECTION	__ (Y/N)
FAILED TO ADOPT	__ (Y/N)
WITHDRAWN	__ (Y/N)
OTHER	____

Council/Committee hearing bill: State Resources Council

Representative Poppell offered the following:

Amendment (with title amendment)

Remove lines 446-447

========== T I T L E A M E N D M E N T ==========

Remove lines 50-53 and insert:

482.211(11), F.S.; providing an

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. 2

Bill No. **HB 7075 CS**

COUNCIL/COMMITTEE ACTION

ADOPTED	__ (Y/N)
ADOPTED AS AMENDED	__ (Y/N)
ADOPTED W/O OBJECTION	__ (Y/N)
FAILED TO ADOPT	__ (Y/N)
WITHDRAWN	__ (Y/N)
OTHER	_____

Council/Committee hearing bill: State Resources Council

Representative Poppell offered the following:

Amendment (with title amendment)

Remove lines 354-362 and insert:

4. Persons selling sugar cane or sorghum syrup which has been boiled and bottled on a premise located within the state. Such bottles must contain a label listing the producer's name and address, and all added ingredients, and a statement which reads, "This product has not been produced in a facility permitted by the Florida Department of Agriculture and Consumer Services".

Section 8. Subsection (1) of section 570.249, Florida Statutes, is amended to read:

570.249 Agricultural Economic Development Program disaster loans and grants and aid.--

(1) USE OF LOAN FUNDS.--

(a) Loan funds to agricultural producers who have experienced ~~crop~~ losses from a natural disaster or a socioeconomic condition or event may be used to:

1. Restore or replace essential physical property, ~~such as animals, fences, equipment, structural production facilities, and orchard trees;~~ or remove debris from essential physical property.

2. Pay all or part of production costs associated with the disaster year.~~;~~

3. Pay essential family living expenses.~~; and~~

4. Restructure farm debts.

(b) To be eligible, agricultural producers shall have no more than 300 acres currently in production.

(c) Funds may be issued as direct loans, or as loan guarantees for up to 90 percent of the total loan, in amounts not less than $30,000 nor more than $300,000 ~~$250,000~~. Applicants must provide at least 10 percent equity.

(d) For purposes of this subsection, the term:

1. "Losses" means loss or damage to crops, agricultural products, agricultural facilities, infrastructure, or farmworker housing.

2. "Essential physical property" means fences, equipment, structural production facilities such as shade houses and greenhouses, other agricultural facilities, infrastructure or farmworker housing.

========== T I T L E A M E N D M E N T ==========

Remove line 34 and insert:

certain food inspections by the department; amending s. 570.249, F.S.; expanding the conditions under which loan funds to certain agricultural producers may be granted; providing for

eligibility; increasing the maximum amount of a loan; providing definitions; creating s.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 7131 PCB ENVR 06-02 Brownfields
SPONSOR(S): Environmental Regulation Committee
TIED BILLS: **IDEN./SIM. BILLS:** SB 1092

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
Orig. Comm.: Environmental Regulation Committee	5 Y, 0 N	Kliner	Kliner
1) Finance & Tax Committee	7 Y, 0 N	Levin	Diez-Arguelles
2) Transportation & Economic Development Appropriations Committee	(W/D)		
3) State Resources Council		Kliner	Hamby
4)			
5)			

SUMMARY ANALYSIS

This bill amends various provisions of the Florida Brownfield Redevelopment Act.

Specifically, the bill:

- Increases the amount of credit, from 35 percent to 50 percent, that may be applied against intangible personal property tax and corporate income tax for the voluntary cleanup costs of a contaminated brownfield or dry-cleaning site, and increases the amount of tax credit that may be granted to a tax credit applicant per year from $250,000 to $500,000;
- Increases the percentage and amount of tax credit that may be received by the taxpayer in the final year of the cleanup as an incentive to complete the cleanup. The percentage is increased from 10 percent to 25 percent and the amount is increased from $50,000 to $500,000;
- Increases the total amount of tax credits which may be granted for brownfield cleanup from $2 million annually to $5 million annually;
- Expands the Voluntary Cleanup Tax Credit program to provide incentives for cleaning unlicensed, or promiscuous solid waste dumpsites;
- Requires Enterprise Florida, Inc., to aggressively market brownfields;
- Increases the amount of the brownfields loan guarantee from 10 to 25 percent; and,
- Repeals the Brownfield Property Ownership Clearance Assistance Program and the Brownfield Property Ownership Clearance Assistance Revolving Loan Trust Fund.

The fiscal impact of this bill is expected to be approximately negative ($3 million) in state revenues in both FY 2006-07 and FY 2007-08.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Ensure Lower Taxes:
The bill provides an increase for the percentage of costs of voluntary cleanup activity from 35 percent to 50 percent eligible for a tax credit against intangible personal property tax or corporate income tax. The bill increases the percentage and amount of tax credit that may be received by the taxpayer in the final year of the cleanup as an incentive to complete the cleanup.

B. EFFECT OF PROPOSED CHANGES:

Current Situation

In 1995, the U.S. Environmental Protection Agency (EPA) initiated a program to empower states, communities, and other stakeholders in economic redevelopment to work together in a timely manner to prevent, assess, safely clean up, and reuse brownfields. Florida followed suit in 1997 and enacted the Brownfields Redevelopment Act to provide incentives for the private sector to redevelop abandoned or underused real property, the development of which was complicated by real or perceived environmental contamination.

The federal brownfields program was significantly expanded on January 11, 2002, when President Bush signed into law the Small Business Relief and Liability and Brownfields Revitalization Act, also known as the "Brownfields Amendments." The main purpose of this new law was to create incentives for the redevelopment of brownfield properties and Superfund sites and provide grants to assess or cleanup a brownfields property.

The Florida Brownfield Redevelopment Act, consisting of ss. 376.77-376.85, F.S., provides legislative intent, a brownfield area designation process, environmental cleanup criteria, program eligibility and liability protections, and economic and financial incentives. Furthermore, s. 376.86, F.S., provides for a Brownfield Areas Loan Guarantee Program, and ss. 376.87 and 376.875, F.S., provide for brownfield property ownership clearance assistance and the creation of the Brownfield Property Ownership Clearance Assistance Revolving Loan Trust Fund.

Legislative intent

As provided in s. 376.78, F.S., the Legislature declared that the reduction of public health and environmental hazards on existing commercial and industrial sites is vital to their use and reuse as sources of employment.

Designation and administration—Designation of a brownfield area must come from the local government through the passage of a local resolution. Once a brownfield area has been designated, the local government must notify the Department of Environmental Protection (DEP) and attach a map or a detailed legal description of the brownfield area. The designation of a brownfield area may be initiated in one of two ways:

- By a local government to encourage redevelopment of an area of specific interest to the community; or
- By an individual with a redevelopment plan in mind.

In determining the area to be designated, the local government must consider:

- Whether the brownfield area warrants economic development and has a reasonable potential for such activities;
- Whether the proposed area to be designated represents a reasonable focused approach and is not overly large in geographic coverage;
- Whether the area has potential to interest the private sector in participating in rehabilitation; and
- Whether the area contains sites or parts of sites suitable for limited recreational open space, cultural, or historical preservation purposes. See, Section 376.80(2), F.S.

A local government shall designate a brownfield area if:

- The person who owns or controls a potential brownfield site is requesting the designation and has agreed to rehabilitate the site;
- The redevelopment and rehabilitation of the proposed brownfield site will result in economic productivity of the area and will create at least 10 new permanent jobs at the brownfield site;[1]
- The redevelopment of the proposed brownfield site is consistent with the local comprehensive plan and is a permittable use under the applicable local land development regulations;
- Notice has been provided to neighbors and nearby residents of the proposed area to be designated; and
- The person proposing the area for designation has provided reasonable assurance that there are sufficient financial resources to implement and complete the rehabilitation agreement and redevelopment plan.

The designation of a brownfield area and the identification of a person responsible for brownfield site rehabilitation simply entitle the identified person to negotiate a brownfield site rehabilitation agreement with the DEP or an approved local program. The person responsible for rehabilitation must enter into a brownfield site rehabilitation agreement with the DEP or an approved local program to be eligible for certain benefits associated with the brownfields redevelopment program. As of February 1, 2006, there were 125 designated brownfield areas in Florida. According to information reported by the Governor's Office of Tourism, Trade, and Economic Development to the DEP in January 2006, the cumulative totals for new job creation and capital investment attributable to the Brownfields Redevelopment program from inception of the program until December 31, 2005 are: 6,656 new direct jobs, 5,935 new indirect jobs, and $546,913,933 of capital investment in designated brownfields areas.

Cleanup criteria

Risk-based corrective-action principles apply, to the maximum extent feasible, to the cleanup activities on a brownfield site within a designated brownfield area. These principles are designed to achieve protection of human health and safety and the environment in a cost-effective manner by taking into account natural attenuation, individual site characteristics, and the use of engineering and institutional controls.

Eligibility and liability protection

A person who has not caused or contributed to the contamination of a brownfield site on or after July 1, 1997, is eligible to participate in the brownfield program. Certain specified sites are not eligible for the program. Those sites include brownfield sites that are subject to an ongoing formal judicial or administrative enforcement action or corrective action pursuant to federal authority, or sites that have obtained or are required to obtain a hazardous waste operation, storage, or disposal facility permit, unless specifically exempted by a memorandum of agreement with the EPA.

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1 As specified in s. 376.80(2)(b), F.S., the 10 new permanent jobs may be full- or part-time and cannot be associated with the rehabilitation agreement or redevelopment project demolition or construction activities.

After July 1, 1997, petroleum and drycleaning contamination sites in a brownfield area cannot receive both funding assistance for the cleanup of the discharge that is available under the underground storage tank cleanup program or the drycleaning cleanup program and any state assistance available under s. 288.107, F.S., relating to brownfield redevelopment bonus refunds.

If a state or local government has acquired a contaminated site within a brownfield area, it is not liable for implementing site rehabilitation corrective actions, unless the state or local government has caused or contributed to a release of contaminants at the brownfield site. Also, nonprofit conservation organizations, acting for the public interest, which purchase contaminated sites and which did not contribute to the release of contamination on the site also warrant protection from liability.

Lenders are afforded certain liability protections to encourage financing of real property in brownfield areas. Essentially, the same liability protections apply to lenders if they have not caused or contributed to a release of a contaminant at the brownfield site.

Economic and financial incentives

Since the Brownfields Redevelopment Act was envisioned to emphasize economic redevelopment, local governments were expected to play a significant role in the process. As a result, state and local governments are encouraged to offer redevelopment incentives which may include financial, regulatory, and technical assistance. Other economic and financial incentives available to brownfield sites are tax refunds for qualified target industries located in a brownfield area, brownfield redevelopment bonus refunds, and partial voluntary cleanup tax credits.

The tax refunds available may be for corporate income taxes, insurance premium taxes, sales and use taxes, intangible personal property taxes, emergency excise taxes, documentary stamp taxes, and ad valorem taxes.

The brownfield redevelopment bonus refunds of $2,500 are available to any qualified target industry business for each new Florida job created in a brownfield area which is claimed on the qualified target industry's annual refund claim. Section 288.107, F.S., provides the minimum criteria for participation in the brownfield redevelopment bonus refund program.

Voluntary cleanup tax credit

One of the financial incentives that is getting increased attention as the brownfield program matures and gains in popularity is the voluntary cleanup tax credit or VCTC. This is a tax credit available for site rehabilitation conducted at eligible drycleaning sites and brownfield sites in designated brownfield areas. To be eligible, the responsible party must execute a Brownfield Site Rehabilitation Agreement with the DEP.

The VCTC can apply toward either the intangible personal property tax or the corporate income tax. The amount of the credit is 35 percent of the costs of the voluntary cleanup activity that is integral to site rehabilitation. The maximum tax credit an applicant can receive is $250,000 per year. If the credit is not fully used in any one year because of insufficient tax liability on the part of the tax credit applicant, the unused amount may be carried forward for a period not to exceed 5 years. However, the total amount of the tax credit that may be granted each year under the program is $2 million. To date, however, the total amount of applications for the tax credits has not reached the $2 million cap in any one year. DEP reports that from creation of the tax credit program in 1998 through FY 02-03, the total value of tax credits issued annually has nearly doubled each year. A total of $3,867,638 in tax credits have been issued since its inception in 1998. Of the total amount of tax credits issued, $3,098,752 (80 percent) have been issued for brownfield sites and $768,886 (20 percent) have been issued for

drycleaning solvent cleanup sites. Table A below, illustrates the fiscal year history associated with the voluntary tax credit program administered by DEP:

Table A

Fiscal Year	# Voluntary Cleanup Tax Credit Certificates Issued	Total $ Issued
FY 1998-1999	1	$30,228.13
FY 1999-2000	3	$118,438.25
FY 2000-2001	6	$213,851.71
FY 2001-2002	9	$494,193.72
FY 2002-2003	13	$1,068,049.29
FY 2003-2004	16	$1,014,834.47
FY 2004-2005	10	$928,042.19
FY 2005-2006	9	$1,010,086.10

As an inducement to complete the voluntary cleanup, the tax credit applicant may claim an additional 10 per cent of the total cleanup costs, not to exceed $50,000 in the final year of cleanup. The tax credits may be transferred once to another entity in whole or in units of not less than 25 percent of the remaining credit.

According to industry representatives and the DEP, there are brownfield sites that are impacted by solid waste; however, due to a lack of "contamination" as defined by statute and rule the DEP lacks authorization to award tax credits associated with the solid waste cleanup.

Brownfield Areas Loan Guarantee Program

The Brownfield Areas Loan Guarantee Program was created in 1998. A Brownfield Areas Loan Guarantee Council was created to review, approve, or deny certain partnership agreements with local governments, financial institutions, and others associated with the redevelopment of brownfields for limited guarantees of loans or loss reserves. A loan guarantee may only be for a period of not more than 5 years.

The limited state loan guarantee applies to 10 percent of the primary lender's loans for redevelopment projects in brownfields areas. The loan guarantee holds until permanent financing is acquired or until the project is sold. Section 376.86, F.S., provides that no more than $5 million of the balance of the Inland Protection Trust Fund in any fiscal year may be at risk at any time on loan guarantees or as loan loss reserves. To date, the loan guarantee provisions have been used only one time. That project involved a shopping center and an out-parcel in a Clearwater brownfield area. The loan guarantee mechanism worked as it was designed to do. With the loan guarantee, the developer has more financial flexibility because the initial cash flow is not as great.

Brownfield Property Ownership Clearance Assistance and Revolving Loans Trust Fund

Section 376.87, F.S., provides for brownfield property ownership clearance assistance. The Legislature recognized that some brownfield redevelopment projects are more difficult to redevelop due to the existence of various types of liens on the property and complications from previous ownership having declared bankruptcy. The Brownfield Property Ownership Clearance Assistance Revolving Loan Trust Fund was created to assist in the early stages of redeveloping brownfields by helping to clear prior liens on the property through a negotiated process. The loans would be repaid in later years from the resale of the brownfield properties following site rehabilitation and other activities that will enhance the property's ultimate value. This trust fund has never been capitalized and used for its intended purposes.

Enterprise Florida, Inc.:

Enterprise Florida, Inc. (EFI) is the public-private partnership responsible for leading Florida's statewide economic development efforts. EFI was formed in July 1996, when Florida became the first state in the nation to replace its Commerce Department with a public-private organization that is responsible for economic development, international trade and statewide business marketing. EFI's mission is to diversify Florida's economy and create better-paying jobs for its citizens by supporting, attracting and helping to create businesses in innovative, high-growth industries. [2] Currently, brownfields are not included in the types of communities that EFI is required to aggressively assist in economic development and jog growth.

Effect of Proposed Changes

- Increases the amount of credit, from 35 percent to 50 percent, that may be applied against intangible personal property tax and corporate income tax for the voluntary cleanup costs of a contaminated brownfield or dry-cleaning site, and increases the amount of tax credit that may be granted to a tax credit applicant per year from $250,000 to $500,000;
- Increases the percentage and amount of tax credit that may be received by the taxpayer in the final year of the cleanup as an incentive to complete the cleanup. The percentage is increased from 10 percent to 25 percent and the amount is increased from $50,000 to $500,000;
- Increases the total amount of tax credits which may be granted for brownfield cleanup from $2 million annually to $5 million annually;
- Expands the Voluntary Cleanup Tax Credit program to provide incentives for cleaning unlicensed, or historic solid waste dumpsites;
- Requires Enterprise Florida, Inc., to aggressively market brownfields;
- Increases the amount of the brownfields loan guarantee from 10 to 25 percent; and,
- Repeals the Brownfield Property Ownership Clearance Assistance Program and the Brownfield Property Ownership Clearance Assistance Revolving Loan Trust Fund.

C. SECTION DIRECTORY:

Sections 1, 2, and 3. Sections 199.1055, 220.1845, and 376.30781, F.S., are amended to increase the tax credit that is available against either the intangible personal property tax or the corporate income tax for costs incurred for voluntary cleanup activity integral to site rehabilitation from 35 percent to 50 percent. Also, the amount of tax credit that may be granted to a tax credit applicant per year is increased from $250,000 to $500,000. Eligible sites are expended to include certain solid waste facilities.

To encourage completion of site rehabilitation at contaminated sites being voluntarily cleaned up, current law allows the applicant to claim an additional 10 percent of the total cleanup costs in the final year of cleanup up to $50,000. These sections are amended to increase the percentage to 25 percent and the maximum amount from $50,000 to $500,000. The total amount of the tax credit that may be granted annually is increased from $2 million to $5 million.

Section 4. Part VII of ch. 288, F.S., creates Enterprise Florida, Inc., as the principle economic development organization for the state. It is Enterprise Florida, Inc.'s responsibility to aggressively market Florida's rural communities, distressed urban communities, and enterprise zones as locations for potential new investment, to aggressively assist these communities in the identification and development of new economic opportunities for job creation, and to fully market state incentive programs such as the Qualified Target Industry Tax Refund Program and the Quick Action Closing Fund in economically distressed areas. This section amends s. 288.9015, F.S., to require Enterprise Florida, Inc., to aggressively market brownfields as locations for potential new investment.

2 http://www.eflorida.com/aboutus/default.asp?tn=3

Section 5. This section amends s. 376.86, F.S., to increase the amount of the Brownfield Areas Loan Guarantee from 10 percent to 25 percent.

Section 6. This section repeals ss. 376.87 and 376.875, F.S., which relate to the brownfield property ownership clearance assistance program and the Brownfield Property Ownership Clearance Assistance Revolving Loan Trust Fund. This program has never been capitalized and used for its intended purposes.

Section 7. This section provides an effective date of July 1, 2006

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

	FY 2006-2007	FY 2007-2008
General Revenue	($3 million)	($3 million)

2. Expenditures:

a. Non-recurring Effects:

The bill will require DEP to amend an existing rule detailing the tax credit application process.

b. Recurring Effects: None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

a. Non-recurring Effects:

None.

b. Recurring Effects:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The bill increases the amount of credit, from 35 percent to 50 percent, that may be applied against intangible personal property tax and corporate income tax for the voluntary cleanup costs of a contaminated brownfield or dry-cleaning site, and increases the completion incentive cap from 10 percent to 25 percent. The amount of tax credit that may be granted to a tax credit applicant per year is increased from $250,000 to $500,000. These changes may result in increased participation in the Florida Brownfields Redevelopment Program and in voluntary cleanup of drycleaning solvent contaminated sites. Direct benefits may include employment opportunities for environmental cleanup contractors, future job opportunities for area residents, opportunity for developers to realize profits on property investments, the possibility of an increase in surrounding property value, and a reduction or elimination of risk to public health and the environment resulting from cleaning up contamination in the area.

D. FISCAL COMMENTS:

None

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable because this bill does not appear to: require cities or counties to spend funds or take actions requiring the expenditure of funds; reduce the authority that cities or counties have to raise revenues in the aggregate; or reduce the percentage of a state tax shared with cities or counties

2. Other:

None

B. RULE-MAKING AUTHORITY:

The bill will require DEP to amend an existing rule detailing the tax credit application process.

C. DRAFTING ISSUES OR OTHER COMMENTS:

Language concerning the additional 25 percent of total clean up costs eligible for tax credits during the final year of cleanup under sections 199.1055, 220.1845 and 376.30781(2), F.S., but not s. 376.3078(13), F.S., could be clarified.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES

N/A

A bill to be entitled

An act relating to the redevelopment of brownfields; amending ss. 199.1055, 220.1845, and 376.30781, F.S.; increasing the amount and percentage of the credit that may be applied against the intangible personal property tax and the corporate income tax for the cost of voluntary cleanup of a contaminated site; increasing the amount that may be received by the taxpayer as an incentive to complete the cleanup in the final year; increasing the total amount of credits that may be granted in any year; providing tax credits for voluntary cleanup activities related to solid waste disposal facilities; providing criteria for eligible sites and activities; directing the Department of Environmental Protection to apply certain criteria, requirements, and limitations for implementation of such provisions; providing certain exceptions; amending s. 288.9015, F.S.; requiring Enterprise Florida, Inc., to aggressively market brownfields; amending s. 376.86, F.S.; increasing the percentage of loans for redevelopment projects in brownfield areas to which the state loan guarantee applies under the Brownfield Areas Loan Guarantee Program; repealing s. 376.87, F.S., relating to the Brownfield Property Ownership Clearance Assistance; repealing s. 376.875, F.S., relating to the Brownfield Property Ownership Clearance Assistance Revolving Loan Trust Fund; amending s. 14.2015, F.S.; deleting a reference to the trust fund to conform; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Subsection (1) of section 199.1055, Florida Statutes, is amended to read:

199.1055 Contaminated site rehabilitation tax credit.--

(1) AUTHORIZATION FOR TAX CREDIT; LIMITATIONS.--

(a) A credit in the amount of 50 ~~35~~ percent of the costs of voluntary cleanup activity that is integral to site rehabilitation at the following sites is available against any tax due for a taxable year under s. 199.032, less any credit allowed by former s. 220.68 for that year:

1. A drycleaning-solvent-contaminated site eligible for state-funded site rehabilitation under s. 376.3078(3);

2. A drycleaning-solvent-contaminated site at which cleanup is undertaken by the real property owner pursuant to s. 376.3078(11), if the real property owner is not also, and has never been, the owner or operator of the drycleaning facility where the contamination exists; or

3. A brownfield site in a designated brownfield area under s. 376.80.

(b) A tax credit applicant, or multiple tax credit applicants working jointly to clean up a single site, may not be granted more than $500,000 ~~$250,000~~ per year in tax credits for each site voluntarily rehabilitated. Multiple tax credit applicants shall be granted tax credits in the same proportion as their contribution to payment of cleanup costs. Subject to the same conditions and limitations as provided in this section,

a municipality, county, or other tax credit applicant which voluntarily rehabilitates a site may receive not more than $500,000 ~~$250,000~~ per year in tax credits which it can subsequently transfer subject to the provisions in paragraph (g).

(c) If the credit granted under this section is not fully used in any one year because of insufficient tax liability on the part of the tax credit applicant, the unused amount may be carried forward for a period not to exceed 5 years. Five years after the date a credit is granted under this section, such credit expires and may not be used. However, if during the 5-year period the credit is transferred, in whole or in part, pursuant to paragraph (g), each transferee has 5 years after the date of transfer to use its credit.

(d) A taxpayer that receives a credit under s. 220.1845 is ineligible to receive credit under this section in a given tax year.

(e) A tax credit applicant that receives state-funded site rehabilitation pursuant to s. 376.3078(3) for rehabilitation of a drycleaning-solvent-contaminated site is ineligible to receive credit under this section for costs incurred by the tax credit applicant in conjunction with the rehabilitation of that site during the same time period that state-administered site rehabilitation was underway.

(f) The total amount of the tax credits which may be granted under this section and s. 220.1845 is $5 ~~$2~~ million annually.

(g)1. Tax credits that may be available under this section to an entity eligible under s. 376.30781 may be transferred after a merger or acquisition to the surviving or acquiring entity and used in the same manner with the same limitations.

2. The entity or its surviving or acquiring entity as described in subparagraph 1., may transfer any unused credit in whole or in units of no less than 25 percent of the remaining credit. The entity acquiring such credit may use it in the same manner and with the same limitation as described in this section. Such transferred credits may not be transferred again although they may succeed to a surviving or acquiring entity subject to the same conditions and limitations as described in this section.

3. In the event the credit provided for under this section is reduced either as a result of a determination by the Department of Environmental Protection or an examination or audit by the Department of Revenue, such tax deficiency shall be recovered from the first entity, or the surviving or acquiring entity, to have claimed such credit up to the amount of credit taken. Any subsequent deficiencies shall be assessed against any entity acquiring and claiming such credit, or in the case of multiple succeeding entities in the order of credit succession.

(h) In order to encourage completion of site rehabilitation at contaminated sites being voluntarily cleaned up and eligible for a tax credit under this section, the tax credit applicant may claim an additional 25 ~~10~~ percent of the total cleanup costs, not to exceed $500,000 ~~$50,000~~, in the final year of cleanup as evidenced by the Department of

Environmental Protection issuing a "No Further Action" order for that site.

Section 2. Subsection (1) of section 220.1845, Florida Statutes, is amended to read:

220.1845 Contaminated site rehabilitation tax credit.--

(1) AUTHORIZATION FOR TAX CREDIT; LIMITATIONS.--

(a) A credit in the amount of 50 ~~35~~ percent of the costs of voluntary cleanup activity that is integral to site rehabilitation at the following sites is available against any tax due for a taxable year under this chapter:

1. A drycleaning-solvent-contaminated site eligible for state-funded site rehabilitation under s. 376.3078(3);

2. A drycleaning-solvent-contaminated site at which cleanup is undertaken by the real property owner pursuant to s. 376.3078(11), if the real property owner is not also, and has never been, the owner or operator of the drycleaning facility where the contamination exists; or

3. A brownfield site in a designated brownfield area under s. 376.80.

(b) A tax credit applicant, or multiple tax credit applicants working jointly to clean up a single site, may not be granted more than $500,000 ~~$250,000~~ per year in tax credits for each site voluntarily rehabilitated. Multiple tax credit applicants shall be granted tax credits in the same proportion as their contribution to payment of cleanup costs. Subject to the same conditions and limitations as provided in this section, a municipality, county, or other tax credit applicant which voluntarily rehabilitates a site may receive not more than

$500,000 ~~$250,000~~ per year in tax credits which it can subsequently transfer subject to the provisions in paragraph (h).

(c) If the credit granted under this section is not fully used in any one year because of insufficient tax liability on the part of the corporation, the unused amount may be carried forward for a period not to exceed 5 years. The carryover credit may be used in a subsequent year when the tax imposed by this chapter for that year exceeds the credit for which the corporation is eligible in that year under this section after applying the other credits and unused carryovers in the order provided by s. 220.02(8). Five years after the date a credit is granted under this section, such credit expires and may not be used. However, if during the 5-year period the credit is transferred, in whole or in part, pursuant to paragraph (h), each transferee has 5 years after the date of transfer to use its credit.

(d) A taxpayer that files a consolidated return in this state as a member of an affiliated group under s. 220.131(1) may be allowed the credit on a consolidated return basis up to the amount of tax imposed upon the consolidated group.

(e) A taxpayer that receives credit under s. 199.1055 is ineligible to receive credit under this section in a given tax year.

(f) A tax credit applicant that receives state-funded site rehabilitation under s. 376.3078(3) for rehabilitation of a drycleaning-solvent-contaminated site is ineligible to receive credit under this section for costs incurred by the tax credit

applicant in conjunction with the rehabilitation of that site during the same time period that state-administered site rehabilitation was underway.

(g) The total amount of the tax credits which may be granted under this section and s. 199.1055 is $5 ~~$2~~ million annually.

(h)1. Tax credits that may be available under this section to an entity eligible under s. 376.30781 may be transferred after a merger or acquisition to the surviving or acquiring entity and used in the same manner and with the same limitations.

2. The entity or its surviving or acquiring entity as described in subparagraph 1., may transfer any unused credit in whole or in units of no less than 25 percent of the remaining credit. The entity acquiring such credit may use it in the same manner and with the same limitation as described in this section. Such transferred credits may not be transferred again although they may succeed to a surviving or acquiring entity subject to the same conditions and limitations as described in this section.

3. In the event the credit provided for under this section is reduced either as a result of a determination by the Department of Environmental Protection or an examination or audit by the Department of Revenue, such tax deficiency shall be recovered from the first entity, or the surviving or acquiring entity, to have claimed such credit up to the amount of credit taken. Any subsequent deficiencies shall be assessed against any

entity acquiring and claiming such credit, or in the case of multiple succeeding entities in the order of credit succession.

(i) In order to encourage completion of site rehabilitation at contaminated sites being voluntarily cleaned up and eligible for a tax credit under this section, the tax credit applicant may claim an additional 25 ~~10~~ percent of the total cleanup costs, not to exceed $500,000 ~~$50,000~~, in the final year of cleanup as evidenced by the Department of Environmental Protection issuing a "No Further Action" order for that site.

Section 3. Section 376.30781, Florida Statutes, is amended to read:

376.30781 Partial tax credits for rehabilitation of drycleaning-solvent-contaminated sites and brownfield sites in designated brownfield areas; application process; rulemaking authority; revocation authority.--

(1) The Legislature finds that:

(a) To facilitate property transactions and economic growth and development, it is in the interest of the state to encourage the cleanup, at the earliest possible time, of drycleaning-solvent-contaminated sites and brownfield sites in designated brownfield areas.

(b) It is the intent of the Legislature to encourage the voluntary cleanup of drycleaning-solvent-contaminated sites and brownfield sites in designated brownfield areas by providing a partial tax credit for the restoration of such property in specified circumstances.

(2)(a) A credit in the amount of 50 ~~35~~ percent of the costs of voluntary cleanup activity that is integral to site rehabilitation at the following sites is allowed pursuant to ss. 199.1055 and 220.1845:

1. A drycleaning-solvent-contaminated site eligible for state-funded site rehabilitation under s. 376.3078(3);

2. A drycleaning-solvent-contaminated site at which cleanup is undertaken by the real property owner pursuant to s. 376.3078(11), if the real property owner is not also, and has never been, the owner or operator of the drycleaning facility where the contamination exists; or

3. A brownfield site in a designated brownfield area under s. 376.80.

(b) A tax credit applicant, or multiple tax credit applicants working jointly to clean up a single site, may not be granted more than $500,000 ~~$250,000~~ per year in tax credits for each site voluntarily rehabilitated. Multiple tax credit applicants shall be granted tax credits in the same proportion as their contribution to payment of cleanup costs. Tax credits are available only for site rehabilitation conducted during the calendar year for which the tax credit application is submitted.

(c) In order to encourage completion of site rehabilitation at contaminated sites that are being voluntarily cleaned up and that are eligible for a tax credit under this section, the tax credit applicant may claim an additional 25 ~~10~~ percent of the total cleanup costs, not to exceed $500,000 ~~$50,000~~, in the final year of cleanup as evidenced by the

Department of Environmental Protection issuing a "No Further Action" order for that site.

(3) The Department of Environmental Protection shall be responsible for allocating the tax credits provided for in ss. 199.1055 and 220.1845, not to exceed a total of $5 ~~$2~~ million in tax credits annually.

(4) To claim the credit for site rehabilitation conducted during the current calendar year, each tax credit applicant must apply to the Department of Environmental Protection for an allocation of the $5 ~~$2~~ million annual credit by January 15 of the following year on a form developed by the Department of Environmental Protection in cooperation with the Department of Revenue. The form shall include an affidavit from each tax credit applicant certifying that all information contained in the application, including all records of costs incurred and claimed in the tax credit application, are true and correct. If the application is submitted pursuant to subparagraph (2)(a)2., the form must include an affidavit signed by the real property owner stating that it is not, and has never been, the owner or operator of the drycleaning facility where the contamination exists. Approval of partial tax credits must be accomplished on a first-come, first-served basis based upon the date complete applications are received by the Division of Waste Management. A tax credit applicant shall submit only one complete application per site for each calendar year's site rehabilitation costs. Incomplete placeholder applications shall not be accepted and will not secure a place in the first-come, first-served

application line. To be eligible for a tax credit, the tax credit applicant must:

(a) Have entered into a voluntary cleanup agreement with the Department of Environmental Protection for a drycleaning-solvent-contaminated site or a Brownfield Site Rehabilitation Agreement, as applicable; and

(b) Have paid all deductibles pursuant to s. 376.3078(3)(e) for eligible drycleaning-solvent-cleanup program sites.

(5) To obtain the tax credit certificate, a tax credit applicant must annually file an application for certification, which must be received by the Division of Waste Management of the Department of Environmental Protection by January 15 of the year following the calendar year for which site rehabilitation costs are being claimed in a tax credit application. The tax credit applicant must provide all pertinent information requested on the tax credit application form, including, at a minimum, the name and address of the tax credit applicant and the address and tracking identification number of the eligible site. Along with the tax credit application form, the tax credit applicant must submit the following:

(a) A nonrefundable review fee of $250 made payable to the Water Quality Assurance Trust Fund to cover the administrative costs associated with the department's review of the tax credit application;

(b) Copies of contracts and documentation of contract negotiations, accounts, invoices, sales tickets, or other payment records from purchases, sales, leases, or other

transactions involving actual costs incurred for that tax year related to site rehabilitation, as that term is defined in ss. 376.301 and 376.79;

(c) Proof that the documentation submitted pursuant to paragraph (b) has been reviewed and verified by an independent certified public accountant in accordance with standards established by the American Institute of Certified Public Accountants. Specifically, the certified public accountant must attest to the accuracy and validity of the costs incurred and paid by conducting an independent review of the data presented by the tax credit applicant. Accuracy and validity of costs incurred and paid would be determined once the level of effort was certified by an appropriate professional registered in this state in each contributing technical discipline. The certified public accountant's report would also attest that the costs included in the application form are not duplicated within the application. A copy of the accountant's report shall be submitted to the Department of Environmental Protection with the tax credit application; and

(d) A certification form stating that site rehabilitation activities associated with the documentation submitted pursuant to paragraph (b) have been conducted under the observation of, and related technical documents have been signed and sealed by, an appropriate professional registered in this state in each contributing technical discipline. The certification form shall be signed and sealed by the appropriate registered professionals stating that the costs incurred were integral, necessary, and

required for site rehabilitation, as that term is defined in ss. 376.301 and 376.79.

(6) The certified public accountant and appropriate registered professionals submitting forms as part of a tax credit application must verify such forms. Verification must be accomplished as provided in s. 92.525(1)(b) and subject to the provisions of s. 92.525(3).

(7) The Department of Environmental Protection shall review the tax credit application and any supplemental documentation that the tax credit applicant may submit prior to the annual application deadline in order to have the application considered complete, for the purpose of verifying that the tax credit applicant has met the qualifying criteria in subsections (2) and (4) and has submitted all required documentation listed in subsection (5). Upon verification that the tax credit applicant has met these requirements, the department shall issue a written decision granting eligibility for partial tax credits (a tax credit certificate) in the amount of 50 ~~35~~ percent of the total costs claimed, subject to the $500,000 ~~$250,000~~ limitation, for the calendar year for which the tax credit application is submitted based on the report of the certified public accountant and the certifications from the appropriate registered technical professionals.

(8) On or before March 1, the Department of Environmental Protection shall inform each eligible tax credit applicant of the amount of its partial tax credit and provide each eligible tax credit applicant with a tax credit certificate that must be submitted with its tax return to the Department of Revenue to

claim the tax credit or be transferred pursuant to s. 199.1055(1)(g) or s. 220.1845(1)(h). Credits will not result in the payment of refunds if total credits exceed the amount of tax owed.

(9) If a tax credit applicant does not receive a tax credit allocation due to an exhaustion of the $5 ~~$2~~ million annual tax credit authorization, such application will then be included in the same first-come, first-served order in the next year's annual tax credit allocation, if any, based on the prior year application.

(10) The Department of Environmental Protection may adopt rules to prescribe the necessary forms required to claim tax credits under this section and to provide the administrative guidelines and procedures required to administer this section.

(11) The Department of Environmental Protection may revoke or modify any written decision granting eligibility for partial tax credits under this section if it is discovered that the tax credit applicant submitted any false statement, representation, or certification in any application, record, report, plan, or other document filed in an attempt to receive partial tax credits under this section. The Department of Environmental Protection shall immediately notify the Department of Revenue of any revoked or modified orders affecting previously granted partial tax credits. Additionally, the tax credit applicant must notify the Department of Revenue of any change in its tax credit claimed.

(12) A tax credit applicant who receives state-funded site rehabilitation under s. 376.3078(3) for rehabilitation of a

drycleaning-solvent-contaminated site is ineligible to receive a tax credit under s. 199.1055 or s. 220.1845 for costs incurred by the tax credit applicant in conjunction with the rehabilitation of that site during the same time period that state-administered site rehabilitation was underway.

(13) At eligible sites listed in paragraph (2)(a), in addition to any tax credits that may be claimed for site rehabilitation as defined in s. 376.301, a tax credit applicant may also claim tax credits pursuant to the requirements of this section for voluntary cleanup activity that addresses a solid waste disposal facility, subject to the following criteria:

(a) For purposes of this subsection, "solid waste" and "solid waste disposal facility" have the same meanings as defined in s. 403.703, but shall not include sites that merely have litter or debris scattered on the surface of the land;

(b) The solid waste disposal facility must have ceased operation prior to 1988 and must not have been or must not currently be subject to any department solid waste permit;

(c) Tax credits may be claimed for one or more of the following activities:

1. Removing all solid waste from the solid waste disposal facility and disposing of it in a permitted solid waste management facility;

2. Closing the solid waste disposal facility, which may include partial removal and disposal of solid waste in a permitted solid waste management facility, in accordance with the requirements of chapter 62-701, Florida Administrative Code, including grading the facility to achieve appropriate side

slopes, installing final cover, controlling stormwater, and providing gas management, if necessary;

3. Performing long-term care for the solid waste disposal facility in accordance with the requirements of chapter 62-701, Florida Administrative Code, after the facility has been properly closed; and

4. Performing groundwater evaluation and assessment after removal of all solid waste or after the solid waste disposal facility has been properly closed;

(d) If the solid waste disposal facility is closed as described in subparagraph (c)2., the redevelopment of the property containing the solid waste disposal facility shall be limited to commercial or industrial land use only and shall be subject to appropriate engineering and institutional controls, and tax credits shall be awarded only after a restrictive covenant limiting future uses of the property has been reviewed and approved by the department and properly recorded;

(e) Costs for crushing or compacting the solid waste in place solely to make it suitable for future development shall not be eligible for tax credits pursuant to this section; and

(f) Any activity conducted in accordance with this subsection shall not be considered site rehabilitation.

(14) In implementing subsection (13), the department shall use the same criteria, requirements, and limitations detailed in subsections (1)-(12) of this section and ss. 199.1055 and 220.1845, with the following exceptions:

(a) Where reference is made to "site rehabilitation," the department shall consider whether the costs claimed are for

voluntary cleanup activity that addresses a solid waste disposal facility as outlined in subsection (13);

(b) In lieu of the certification requirements of paragraph (5)(d), a tax credit applicant seeking a tax credit pursuant to subsection (13) shall include in the tax credit application:

1. A certification that the applicant has determined, after consultation with local government officials and the department, that the solid waste disposal facility ceased operating prior to January 1, 1974, and is not or has never been subject to a solid waste permit;

2. A certification signed and sealed by an appropriate registered professional and previously approved by the department that the solid waste disposal facility has been properly closed pursuant to chapter 62-701, Florida Administrative Code, or that all solid waste was removed and properly disposed of; and

3. A certification signed and sealed by an appropriate registered professional that costs incurred and claimed in the tax credit application were integral, necessary, and required to conduct those activities listed in paragraph (13)(c), as applicable;

(c) Tax credit applications in which costs are claimed pursuant to subparagraphs (13)(c)1. and 2. shall not be subject to the calendar-year limitation and January 15 annual application deadline, but the department shall accept a one-time application filed after the tax credit applicant has completed all requirements listed in subsection (13) and this subsection;

(d) Notwithstanding the tax credit percentage established in subsections (2) and (7) and ss. 199.1055 and 220.1845, the tax credit for activities conducted pursuant to subparagraphs (13)(c)2.-4. relating to closure of a solid waste disposal facility shall be limited to 25 percent;

(e) The additional percentage allowed by paragraph (2)(c) and ss. 199.1055(1)(h) and 220.1845(1)(i) is not applicable to tax credits claimed pursuant to subsection (13); and

(f) The department shall have 60 days after the date of receipt of any application claiming tax credits pursuant to subsection (13) to process the application and grant or deny the claimed tax credits.

Section 4. Subsection (2) of section 288.9015, Florida Statutes, is amended to read:

288.9015 Enterprise Florida, Inc.; purpose; duties.--

(2) It shall be the responsibility of Enterprise Florida, Inc., to aggressively market Florida's rural communities, distressed urban communities, brownfields, and enterprise zones as locations for potential new investment, to aggressively assist in the retention and expansion of existing businesses in these communities, and to aggressively assist these communities in the identification and development of new economic development opportunities for job creation, fully marketing state incentive programs such as the Qualified Target Industry Tax Refund Program under s. 288.106 and the Quick Action Closing Fund under s. 288.1088 in economically distressed areas.

Section 5. Subsection (1) of section 376.86, Florida Statutes, is amended to read:

376.86 Brownfield Areas Loan Guarantee Program.--

(1) The Brownfield Areas Loan Guarantee Council is created to review and approve or deny by a majority vote of its membership, the situations and circumstances for participation in partnerships by agreements with local governments, financial institutions, and others associated with the redevelopment of brownfield areas pursuant to the Brownfields Redevelopment Act for a limited state guaranty of up to 5 years of loan guarantees or loan loss reserves issued pursuant to law. The limited state loan guaranty applies only to 25 ~~10~~ percent of the primary lenders loans for redevelopment projects in brownfield areas. A limited state guaranty of private loans or a loan loss reserve is authorized for lenders licensed to operate in the state upon a determination by the council that such an arrangement would be in the public interest and the likelihood of the success of the loan is great.

Section 6. Sections 376.87 and 376.875, Florida Statutes, are repealed.

Section 7. Paragraph (f) of subsection (2) of section 14.2015, Florida Statutes, is amended to read:

14.2015 Office of Tourism, Trade, and Economic Development; creation; powers and duties.--

(2) The purpose of the Office of Tourism, Trade, and Economic Development is to assist the Governor in working with the Legislature, state agencies, business leaders, and economic development professionals to formulate and implement coherent and consistent policies and strategies designed to provide economic opportunities for all Floridians. To accomplish such

purposes, the Office of Tourism, Trade, and Economic Development shall:

(f)1. Administer the Florida Enterprise Zone Act under ss. 290.001-290.016, the community contribution tax credit program under ss. 220.183 and 624.5105, the tax refund program for qualified target industry businesses under s. 288.106, the tax-refund program for qualified defense contractors under s. 288.1045, contracts for transportation projects under s. 288.063, the sports franchise facility program under s. 288.1162, the professional golf hall of fame facility program under s. 288.1168, the expedited permitting process under s. 403.973, the Rural Community Development Revolving Loan Fund under s. 288.065, the Regional Rural Development Grants Program under s. 288.018, the Certified Capital Company Act under s. 288.99, the Florida State Rural Development Council, the Rural Economic Development Initiative, and other programs that are specifically assigned to the office by law, by the appropriations process, or by the Governor. Notwithstanding any other provisions of law, the office may expend interest earned from the investment of program funds deposited in the Grants and Donations Trust Fund ~~and the Brownfield Property Ownership Clearance Assistance Revolving Loan Trust Fund~~ to contract for the administration of the programs, or portions of the programs, enumerated in this paragraph or assigned to the office by law, by the appropriations process, or by the Governor. Such expenditures shall be subject to review under chapter 216.

2. The office may enter into contracts in connection with the fulfillment of its duties concerning the Florida First

Business Bond Pool under chapter 159, tax incentives under chapters 212 and 220, tax incentives under the Certified Capital Company Act in chapter 288, foreign offices under chapter 288, the Enterprise Zone program under chapter 290, the Seaport Employment Training program under chapter 311, the Florida Professional Sports Team License Plates under chapter 320, Spaceport Florida under chapter 331, Expedited Permitting under chapter 403, and in carrying out other functions that are specifically assigned to the office by law, by the appropriations process, or by the Governor.

Section 8. This act shall take effect July 1, 2006.

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. 1

Bill No. **HB 7131 CS**

COUNCIL/COMMITTEE ACTION

ADOPTED	__ (Y/N)
ADOPTED AS AMENDED	__ (Y/N)
ADOPTED W/O OBJECTION	__ (Y/N)
FAILED TO ADOPT	__ (Y/N)
WITHDRAWN	__ (Y/N)
OTHER	_____

Council/Committee hearing bill: State Resources Council

Representative(s) Peterman offered the following:

Amendment (with title amendment)

Remove everything after the enacting clause and insert:

Section 1. Section 199.1055, Florida Statutes, is amended to read:

199.1055 Contaminated site rehabilitation tax credit.--

(1) AUTHORIZATION FOR TAX CREDIT; LIMITATIONS.--

(a) A credit in the amount of 50 ~~35~~ percent of the costs of voluntary cleanup activity that is integral to site rehabilitation at the following sites is available against any tax due for a taxable year under s. 199.032, less any credit allowed by former s. 220.68 for that year:

1. A drycleaning-solvent-contaminated site eligible for state-funded site rehabilitation under s. 376.3078(3);

2. A drycleaning-solvent-contaminated site at which cleanup is undertaken by the real property owner pursuant to s. 376.3078(11), if the real property owner is not also, and has never been, the owner or operator of the drycleaning facility where the contamination exists; or

3. A brownfield site in a designated brownfield area under s. 376.80.

(b) A tax credit applicant, or multiple tax credit applicants working jointly to clean up a single site, may not be granted more than $500,000 ~~$250,000~~ per year in tax credits for each site voluntarily rehabilitated. Multiple tax credit applicants shall be granted tax credits in the same proportion as their contribution to payment of cleanup costs. Subject to the same conditions and limitations as provided in this section, a municipality, county, or other tax credit applicant which voluntarily rehabilitates a site may receive not more than $500,000 ~~$250,000~~ per year in tax credits which it can subsequently transfer subject to the provisions in paragraph (g).

(c) If the credit granted under this section is not fully used in any one year because of insufficient tax liability on the part of the tax credit applicant, the unused amount may be carried forward for a period not to exceed 5 years. Five years after the date a credit is granted under this section, such credit expires and may not be used. However, if during the 5-year period the credit is transferred, in whole or in part, pursuant to paragraph (g), each transferee has 5 years after the date of transfer to use its credit.

(d) A taxpayer that receives a credit under s. 220.1845 is ineligible to receive credit under this section in a given tax year.

(e) A tax credit applicant that receives state-funded site rehabilitation pursuant to s. 376.3078(3) for rehabilitation of a drycleaning-solvent-contaminated site is ineligible to receive credit under this section for costs incurred by the tax credit applicant in conjunction with the rehabilitation of that site

during the same time period that state-administered site rehabilitation was underway.

(f) The total amount of the tax credits which may be granted under this section and s. 220.1845 is $5 ~~$2~~ million annually.

(g)1. Tax credits that may be available under this section to an entity eligible under s. 376.30781 may be transferred after a merger or acquisition to the surviving or acquiring entity and used in the same manner with the same limitations.

2. The entity or its surviving or acquiring entity as described in subparagraph 1., may transfer any unused credit in whole or in units of no less than 25 percent of the remaining credit. The entity acquiring such credit may use it in the same manner and with the same limitation as described in this section. Such transferred credits may not be transferred again although they may succeed to a surviving or acquiring entity subject to the same conditions and limitations as described in this section.

3. In the event the credit provided for under this section is reduced either as a result of a determination by the Department of Environmental Protection or an examination or audit by the Department of Revenue, such tax deficiency shall be recovered from the first entity, or the surviving or acquiring entity, to have claimed such credit up to the amount of credit taken. Any subsequent deficiencies shall be assessed against any entity acquiring and claiming such credit, or in the case of multiple succeeding entities in the order of credit succession.

(h) In order to encourage completion of site rehabilitation at contaminated sites being voluntarily cleaned up and eligible for a tax credit under this section, the tax credit applicant may claim an additional 25 ~~10~~ percent of the

total cleanup costs, not to exceed $500,000 ~~$50,000~~, in the final year of cleanup as evidenced by the Department of Environmental Protection issuing a "No Further Action" order for that site.

(i) In order to encourage the construction of housing that meets the definition of affordable provided in s. 420.0004(3), an applicant for the tax credit may claim an additional 25 percent of the total site-rehabilitation costs that are eligible for tax credits under this section, not to exceed $500,000. In order to receive this additional tax credit, the applicant must provide a certification letter from the Florida Housing Finance Corporation, the local housing authority, or other governmental agency that is a party to the use agreement, indicating that the construction on the brownfield site is complete, the brownfield site has received a certificate of occupancy, and the brownfield site has a properly recorded instrument that limits the use of the property to housing that meets the definition of affordable provided in s. 420.0004(3).

(2) FILING REQUIREMENTS.--Any taxpayer that wishes to obtain credit under this section must submit with its return a tax credit certificate approving partial tax credits issued by the Department of Environmental Protection under s. 376.30781.

(3) ADMINISTRATION; AUDIT AUTHORITY; TAX CREDIT FORFEITURE.--

(a) The Department of Revenue may adopt rules to prescribe any necessary forms required to claim a tax credit under this section and to provide the administrative guidelines and procedures required to administer this section.

(b) In addition to its existing audit and investigation authority relating to chapters 199 and 220, the Department of Revenue may perform any additional financial and technical

audits and investigations, including examining the accounts, books, or records of the tax credit applicant, which are necessary to verify the site rehabilitation costs included in a tax credit return and to ensure compliance with this section. The Department of Environmental Protection shall provide technical assistance, when requested by the Department of Revenue, on any technical audits performed under this section.

(c) It is grounds for forfeiture of previously claimed and received tax credits if the Department of Revenue determines, as a result of either an audit or information received from the Department of Environmental Protection, that a taxpayer received tax credits under this section to which the taxpayer was not entitled. In the case of fraud, the taxpayer shall be prohibited from claiming any future tax credits under this section or s. 220.1845.

1. The taxpayer is responsible for returning forfeited tax credits to the Department of Revenue, and such funds shall be paid into the General Revenue Fund of the state.

2. The taxpayer shall file with the Department of Revenue an amended tax return or such other report as the Department of Revenue prescribes by rule and shall pay any required tax within 60 days after the taxpayer receives notification from the Department of Environmental Protection pursuant to s. 376.30781 that previously approved tax credits have been revoked or modified, if uncontested, or within 60 days after a final order is issued following proceedings involving a contested revocation or modification order.

3. A notice of deficiency may be issued by the Department of Revenue at any time within 5 years after the date the taxpayer receives notification from the Department of Environmental Protection pursuant to s. 376.30781 that

previously approved tax credits have been revoked or modified. If a taxpayer fails to notify the Department of Revenue of any change in its tax credit claimed, a notice of deficiency may be issued at any time. In either case, the amount of any proposed assessment set forth in such notice of deficiency shall be limited to the amount of any deficiency resulting under this section from the recomputation of the taxpayer's tax for the taxable year.

4. Any taxpayer that fails to report and timely pay any tax due as a result of the forfeiture of its tax credit is in violation of this section and is subject to applicable penalty and interest.

Section 2. Section 220.1845, Florida Statutes, is amended to read:

220.1845 Contaminated site rehabilitation tax credit.--

(1) AUTHORIZATION FOR TAX CREDIT; LIMITATIONS.--

(a) A credit in the amount of 50 ~~35~~ percent of the costs of voluntary cleanup activity that is integral to site rehabilitation at the following sites is available against any tax due for a taxable year under this chapter:

1. A drycleaning-solvent-contaminated site eligible for state-funded site rehabilitation under s. 376.3078(3);

2. A drycleaning-solvent-contaminated site at which cleanup is undertaken by the real property owner pursuant to s. 376.3078(11), if the real property owner is not also, and has never been, the owner or operator of the drycleaning facility where the contamination exists; or

3. A brownfield site in a designated brownfield area under s. 376.80.

(b) A tax credit applicant, or multiple tax credit applicants working jointly to clean up a single site, may not be

granted more than $500,000 ~~$250,000~~ per year in tax credits for each site voluntarily rehabilitated. Multiple tax credit applicants shall be granted tax credits in the same proportion as their contribution to payment of cleanup costs. Subject to the same conditions and limitations as provided in this section, a municipality, county, or other tax credit applicant which voluntarily rehabilitates a site may receive not more than $500,000 ~~$250,000~~ per year in tax credits which it can subsequently transfer subject to the provisions in paragraph (h).

(c) If the credit granted under this section is not fully used in any one year because of insufficient tax liability on the part of the corporation, the unused amount may be carried forward for a period not to exceed 5 years. The carryover credit may be used in a subsequent year when the tax imposed by this chapter for that year exceeds the credit for which the corporation is eligible in that year under this section after applying the other credits and unused carryovers in the order provided by s. 220.02(8). Five years after the date a credit is granted under this section, such credit expires and may not be used. However, if during the 5-year period the credit is transferred, in whole or in part, pursuant to paragraph (h), each transferee has 5 years after the date of transfer to use its credit.

(d) A taxpayer that files a consolidated return in this state as a member of an affiliated group under s. 220.131(1) may be allowed the credit on a consolidated return basis up to the amount of tax imposed upon the consolidated group.

(e) A taxpayer that receives credit under s. 199.1055 is ineligible to receive credit under this section in a given tax year.

(f) A tax credit applicant that receives state-funded site rehabilitation under s. 376.3078(3) for rehabilitation of a drycleaning-solvent-contaminated site is ineligible to receive credit under this section for costs incurred by the tax credit applicant in conjunction with the rehabilitation of that site during the same time period that state-administered site rehabilitation was underway.

(g) The total amount of the tax credits which may be granted under this section and s. 199.1055 is $5 ~~$2~~ million annually.

(h)1. Tax credits that may be available under this section to an entity eligible under s. 376.30781 may be transferred after a merger or acquisition to the surviving or acquiring entity and used in the same manner and with the same limitations.

2. The entity or its surviving or acquiring entity as described in subparagraph 1., may transfer any unused credit in whole or in units of no less than 25 percent of the remaining credit. The entity acquiring such credit may use it in the same manner and with the same limitation as described in this section. Such transferred credits may not be transferred again although they may succeed to a surviving or acquiring entity subject to the same conditions and limitations as described in this section.

3. In the event the credit provided for under this section is reduced either as a result of a determination by the Department of Environmental Protection or an examination or audit by the Department of Revenue, such tax deficiency shall be recovered from the first entity, or the surviving or acquiring entity, to have claimed such credit up to the amount of credit taken. Any subsequent deficiencies shall be assessed against any

entity acquiring and claiming such credit, or in the case of multiple succeeding entities in the order of credit succession.

(i) In order to encourage completion of site rehabilitation at contaminated sites being voluntarily cleaned up and eligible for a tax credit under this section, the tax credit applicant may claim an additional 25 ~~10~~ percent of the total cleanup costs, not to exceed $500,000 ~~$50,000~~, in the final year of cleanup as evidenced by the Department of Environmental Protection issuing a "No Further Action" order for that site.

(j) In order to encourage the construction of housing that meets the definition of affordable provided in s. 420.0004(3), an applicant for the tax credit may claim an additional 25 percent of the total site-rehabilitation costs that are eligible for tax credits under this section, not to exceed $500,000. In order to receive this additional tax credit, the applicant must provide a certification letter from the Florida Housing Finance Corporation, the local housing authority, or other governmental agency that is a party to the use agreement, indicating that the construction on the brownfield site is complete, the brownfield site has received a certificate of occupancy, and the brownfield site has a properly recorded instrument that limits the use of the property to housing that meets the definition of affordable provided in s. 420.0004(3).

(2) FILING REQUIREMENTS.--Any corporation that wishes to obtain credit under this section must submit with its return a tax credit certificate approving partial tax credits issued by the Department of Environmental Protection under s. 376.30781.

(3) ADMINISTRATION; AUDIT AUTHORITY; TAX CREDIT FORFEITURE.--

(a) The Department of Revenue may adopt rules to prescribe any necessary forms required to claim a tax credit under this section and to provide the administrative guidelines and procedures required to administer this section.

(b) In addition to its existing audit and investigation authority relating to chapter 199 and this chapter, the Department of Revenue may perform any additional financial and technical audits and investigations, including examining the accounts, books, or records of the tax credit applicant, which are necessary to verify the site rehabilitation costs included in a tax credit return and to ensure compliance with this section. The Department of Environmental Protection shall provide technical assistance, when requested by the Department of Revenue, on any technical audits performed pursuant to this section.

(c) It is grounds for forfeiture of previously claimed and received tax credits if the Department of Revenue determines, as a result of either an audit or information received from the Department of Environmental Protection, that a taxpayer received tax credits pursuant to this section to which the taxpayer was not entitled. In the case of fraud, the taxpayer shall be prohibited from claiming any future tax credits under this section or s. 199.1055.

1. The taxpayer is responsible for returning forfeited tax credits to the Department of Revenue, and such funds shall be paid into the General Revenue Fund of the state.

2. The taxpayer shall file with the Department of Revenue an amended tax return or such other report as the Department of Revenue prescribes by rule and shall pay any required tax within 60 days after the taxpayer receives notification from the Department of Environmental Protection pursuant to s. 376.30781

that previously approved tax credits have been revoked or modified, if uncontested, or within 60 days after a final order is issued following proceedings involving a contested revocation or modification order.

3. A notice of deficiency may be issued by the Department of Revenue at any time within 5 years after the date the taxpayer receives notification from the Department of Environmental Protection pursuant to s. 376.30781 that previously approved tax credits have been revoked or modified. If a taxpayer fails to notify the Department of Revenue of any change in its tax credit claimed, a notice of deficiency may be issued at any time. In either case, the amount of any proposed assessment set forth in such notice of deficiency shall be limited to the amount of any deficiency resulting under this section from the recomputation of the taxpayer's tax for the taxable year.

4. Any taxpayer that fails to report and timely pay any tax due as a result of the forfeiture of its tax credit is in violation of this section and is subject to applicable penalty and interest.

Section 3. Section 376.30781, Florida Statutes, is amended to read:

376.30781 Partial tax credits for rehabilitation of drycleaning-solvent-contaminated sites and brownfield sites in designated brownfield areas; application process; rulemaking authority; revocation authority.--

(1) The Legislature finds that:

(a) To facilitate property transactions and economic growth and development, it is in the interest of the state to encourage the cleanup, at the earliest possible time, of

drycleaning-solvent-contaminated sites and brownfield sites in designated brownfield areas.

(b) It is the intent of the Legislature to encourage the voluntary cleanup of drycleaning-solvent-contaminated sites and brownfield sites in designated brownfield areas by providing a partial tax credit for the restoration of such property in specified circumstances.

(2) Notwithstanding the requirements of subsection (5), tax credits allowed pursuant to ss. 199.1055 and 220.1845 are available for any site rehabilitation conducted during the calendar year in which the applicable voluntary cleanup agreement or brownfield site rehabilitation agreement is executed, even if the site rehabilitation is conducted prior to the execution of that agreement or the designation of the brownfield area.

(3) ~~(2)~~ (a) A credit in the amount of 50 ~~35~~ percent of the costs of voluntary cleanup activity that is integral to site rehabilitation at the following sites is allowed pursuant to ss. 199.1055 and 220.1845:

1. A drycleaning-solvent-contaminated site eligible for state-funded site rehabilitation under s. 376.3078(3);

2. A drycleaning-solvent-contaminated site at which cleanup is undertaken by the real property owner pursuant to s. 376.3078(11), if the real property owner is not also, and has never been, the owner or operator of the drycleaning facility where the contamination exists; or

3. A brownfield site in a designated brownfield area under s. 376.80.

(b) A tax credit applicant, or multiple tax credit applicants working jointly to clean up a single site, may not be granted more than $500,000 ~~$250,000~~ per year in tax credits for

each site voluntarily rehabilitated. Multiple tax credit applicants shall be granted tax credits in the same proportion as their contribution to payment of cleanup costs. Tax credits are available only for site rehabilitation conducted during the calendar year for which the tax credit application is submitted.

(c) In order to encourage completion of site rehabilitation at contaminated sites that are being voluntarily cleaned up and that are eligible for a tax credit under this section, the tax credit applicant may claim an additional 25 ~~10~~ percent of the total cleanup costs, not to exceed $500,000 ~~$50,000~~, in the final year of cleanup as evidenced by the Department of Environmental Protection issuing a "No Further Action" order for that site.

(d) In order to encourage the construction of housing that meets the definition of affordable provided in s. 420.0004(3), an applicant for the tax credit may claim an additional 25 percent of the total site-rehabilitation costs that are eligible for tax credits under this section, not to exceed $500,000. In order to receive this additional tax credit, the applicant must provide a certification letter from the Florida Housing Finance Corporation, the local housing authority, or other governmental agency that is a party to the use agreement, indicating that the construction on the brownfield site is complete, the brownfield site has received a certificate of occupancy, and the brownfield site has a properly recorded instrument that limits the use of the property to housing that meets the definition of affordable provided in s. 420.0004(3). Notwithstanding the limitation that only one application shall be submitted each year for each site, an application for the additional credit provided for in this paragraph shall be submitted as soon as all requirements to obtain this additional tax credit have been met.

(4) ~~(3)~~ The Department of Environmental Protection shall be responsible for allocating the tax credits provided for in ss. 199.1055 and 220.1845, not to exceed a total of $5 ~~$2~~ million in tax credits annually.

(5) ~~(4)~~ To claim the credit for site rehabilitation conducted during the current calendar year, each tax credit applicant must apply to the Department of Environmental Protection for an allocation of the $5 ~~$2~~ million annual credit by January 15 of the following year on a form developed by the Department of Environmental Protection in cooperation with the Department of Revenue. The form shall include an affidavit from each tax credit applicant certifying that all information contained in the application, including all records of costs incurred and claimed in the tax credit application, are true and correct. If the application is submitted pursuant to subparagraph (2)(a)2., the form must include an affidavit signed by the real property owner stating that it is not, and has never been, the owner or operator of the drycleaning facility where the contamination exists. Approval of partial tax credits must be accomplished on a first-come, first-served basis based upon the date complete applications are received by the Division of Waste Management. A tax credit applicant shall submit only one complete application per site for each calendar year's site rehabilitation costs. Incomplete placeholder applications shall not be accepted and will not secure a place in the first-come, first-served application line. To be eligible for a tax credit, the tax credit applicant must:

(a) Have entered into a voluntary cleanup agreement with the Department of Environmental Protection for a drycleaning-solvent-contaminated site or a Brownfield Site Rehabilitation Agreement, as applicable; and

(b) Have paid all deductibles pursuant to s. 376.3078(3)(e) for eligible drycleaning-solvent-cleanup program sites.

(6)~~(5)~~ To obtain the tax credit certificate, a tax credit applicant must annually file an application for certification, which must be received by the Division of Waste Management of the Department of Environmental Protection by January 15 of the year following the calendar year for which site rehabilitation costs are being claimed in a tax credit application. The tax credit applicant must provide all pertinent information requested on the tax credit application form, including, at a minimum, the name and address of the tax credit applicant and the address and tracking identification number of the eligible site. Along with the tax credit application form, the tax credit applicant must submit the following:

(a) A nonrefundable review fee of $250 made payable to the Water Quality Assurance Trust Fund to cover the administrative costs associated with the department's review of the tax credit application;

(b) Copies of contracts and documentation of contract negotiations, accounts, invoices, sales tickets, or other payment records from purchases, sales, leases, or other transactions involving actual costs incurred for that tax year related to site rehabilitation, as that term is defined in ss. 376.301 and 376.79;

(c) Proof that the documentation submitted pursuant to paragraph (b) has been reviewed and verified by an independent certified public accountant in accordance with standards established by the American Institute of Certified Public Accountants. Specifically, the certified public accountant must attest to the accuracy and validity of the costs incurred and

paid by conducting an independent review of the data presented by the tax credit applicant. Accuracy and validity of costs incurred and paid would be determined once the level of effort was certified by an appropriate professional registered in this state in each contributing technical discipline. The certified public accountant's report would also attest that the costs included in the application form are not duplicated within the application. A copy of the accountant's report shall be submitted to the Department of Environmental Protection with the tax credit application; and

(d) A certification form stating that site rehabilitation activities associated with the documentation submitted pursuant to paragraph (b) have been conducted under the observation of, and related technical documents have been signed and sealed by, an appropriate professional registered in this state in each contributing technical discipline. The certification form shall be signed and sealed by the appropriate registered professionals stating that the costs incurred were integral, necessary, and required for site rehabilitation, as that term is defined in ss. 376.301 and 376.79.

(7) ~~(6)~~ The certified public accountant and appropriate registered professionals submitting forms as part of a tax credit application must verify such forms. Verification must be accomplished as provided in s. 92.525(1)(b) and subject to the provisions of s. 92.525(3).

(8) ~~(7)~~ The Department of Environmental Protection shall review the tax credit application and any supplemental documentation that the tax credit applicant may submit prior to the annual application deadline in order to have the application considered complete, for the purpose of verifying that the tax credit applicant has met the qualifying criteria in subsections

(2) and (4) and has submitted all required documentation listed in subsection (5). Upon verification that the tax credit applicant has met these requirements, the department shall issue a written decision granting eligibility for partial tax credits (a tax credit certificate) in the amount of 50 ~~35~~ percent of the total costs claimed, subject to the $500,000 ~~$250,000~~ limitation, for the calendar year for which the tax credit application is submitted based on the report of the certified public accountant and the certifications from the appropriate registered technical professionals.

(9) ~~(8)~~ On or before March 1, the Department of Environmental Protection shall inform each eligible tax credit applicant of the amount of its partial tax credit and provide each eligible tax credit applicant with a tax credit certificate that must be submitted with its tax return to the Department of Revenue to claim the tax credit or be transferred pursuant to s. 199.1055(1)(g) or s. 220.1845(1)(h). Credits will not result in the payment of refunds if total credits exceed the amount of tax owed.

(10) ~~(9)~~ If a tax credit applicant does not receive a tax credit allocation due to an exhaustion of the $5 ~~$2~~ million annual tax credit authorization, such application will then be included in the same first-come, first-served order in the next year's annual tax credit allocation, if any, based on the prior year application.

(11) ~~(10)~~ The Department of Environmental Protection may adopt rules to prescribe the necessary forms required to claim tax credits under this section and to provide the administrative guidelines and procedures required to administer this section.

(12) ~~(11)~~ The Department of Environmental Protection may revoke or modify any written decision granting eligibility for

partial tax credits under this section if it is discovered that the tax credit applicant submitted any false statement, representation, or certification in any application, record, report, plan, or other document filed in an attempt to receive partial tax credits under this section. The Department of Environmental Protection shall immediately notify the Department of Revenue of any revoked or modified orders affecting previously granted partial tax credits. Additionally, the tax credit applicant must notify the Department of Revenue of any change in its tax credit claimed.

(13)~~(12)~~ A tax credit applicant who receives state-funded site rehabilitation under s. 376.3078(3) for rehabilitation of a drycleaning-solvent-contaminated site is ineligible to receive a tax credit under s. 199.1055 or s. 220.1845 for costs incurred by the tax credit applicant in conjunction with the rehabilitation of that site during the same time period that state-administered site rehabilitation was underway.

(14) At any brownfield site in a designated brownfield area under s. 376.80, a tax credit applicant may also claim tax credits pursuant to the requirements of this section for voluntary cleanup of sites impacted by solid waste subject to the following criteria:

(a) For purposes of this subsection:

1. "Solid waste" shall have the meaning found in s. 403.703(13);

2. "Sites impacted by solid waste" must be located in an "urban area."

3. "Urban area" shall have the meaning found in s. 380.503(15);

4. "Sites impacted by solid waste" shall not include sites that merely have litter or debris scattered on the surface of the land; and

5. "Sites impacted by solid waste" shall not include sites where the clean up activity addresses the disposal of solid waste transported from another location for the purpose of disposal on the disposal site, and for the pecuniary gain of the prior or current property owner or operator of the disposal site.

(b) Tax credits may be claimed for one or more of the following activities:

1. Analytical work to assess potential contamination in any media;

2. Sorting, screening, separating, excavating, removing, or disposing of solid waste in a manner consistent with Florida law;

3. Backfilling with clean fill excavated areas where solid waste was removed;

4. Compacting excavated areas where solid waste was removed;

5. Establishing institutional controls; and

6. Engineering work directly associated with the activities listed in this paragraph (b).

(c) Costs for compacting the solid waste shall not be eligible for tax credits pursuant to this section; and

(d) No activities conducted in accordance with this subsection (14) shall be considered site rehabilitation.

(15) In implementing subsection (14), the Department shall use the same criteria, requirements, and limitations detailed in subsections (1) through (13) of this section and sections 199.1055 and 220.1845, with the following exceptions:

(a) Where reference is made to "site rehabilitation," the Department shall instead consider whether the costs claimed are for voluntary cleanup of sites impacted by solid waste as outlined in subsection (14);

(b) In lieu of the certification requirements of paragraph (5)(d), a tax credit applicant seeking a tax credit pursuant to subsection (14) shall include in its tax credit application:

1. A certification that the applicant has determined, after consultation with local government officials and the Department, that, to the best of the applicant's knowledge, the clean up activity did not address the disposal of solid waste transported from another location for the purpose of disposal on the disposal site, and for the pecuniary gain of the prior or current property owner or operator of the disposal site;

2. A certification that the applicant has determined, after consultation with local government officials, that the disposal of the solid waste was in an urban area;

3. A certification signed and sealed by an appropriate registered professional that costs incurred and claimed in the tax credit application were integral, necessary and required to conduct those activities listed in paragraph (14)(b), as applicable; and

4. A certification that the applicant did not cause or contribute to the disposal of the solid waste.

(c) Tax credit applications claiming costs pursuant to paragraph (14)(b) shall not be subject to the calendar-year limitation and January 15 annual application deadline, and instead the Department shall accept a one-time application filed subsequent to the tax credit applicant completing the applicable requirements listed in subsection (14) and this subsection;

(d) The additional percentage allowed by paragraph (2)(c) and paragraphs 199.1055(1)(h) and 220.1845(1)(i) is applicable to tax credits claimed pursuant to subsection (14) only if all solid waste has been removed from the site;

(e) The Department shall have 60 days from the date of receipt of any application claiming tax credits pursuant to subsection (14) to process the application and grant or deny the claimed tax credits; and

(f) Subsection 14 and this subsection shall not be construed to broaden the authority of local governments to designate brownfield areas under s. 376.80.

~~(14) At eligible sites listed in paragraph (2)(a), in addition to any tax credits that may be claimed for site rehabilitation as defined in s. 376.301, a tax credit applicant may also claim tax credits pursuant to the requirements of this section for voluntary cleanup activity that addresses a solid waste disposal facility, subject to the following criteria:~~

~~(a) For purposes of this subsection, "solid waste" and "solid waste disposal facility" have the same meanings as defined in s. 403.703, but shall not include sites that merely have litter or debris scattered on the surface of the land;~~

~~(b) The solid waste disposal facility must have ceased operation prior to 1988 and must not have been or must not currently be subject to any department solid waste permit;~~

~~(c) Tax credits may be claimed for one or more of the following activities:~~

~~1. Removing all solid waste from the solid waste disposal facility and disposing of it in a permitted solid waste management facility;~~

~~2. Closing the solid waste disposal facility, which may include partial removal and disposal of solid waste in a permitted solid~~

~~waste management facility, in accordance with the requirements of chapter 62-701, Florida Administrative Code, including grading the facility to achieve appropriate side slopes, installing final cover, controlling stormwater, and providing gas management, if necessary;~~

~~3. Performing long-term care for the solid waste disposal facility in accordance with the requirements of chapter 62-701, Florida Administrative Code, after the facility has been properly closed; and~~

~~4. Performing groundwater evaluation and assessment after removal of all solid waste or after the solid waste disposal facility has been properly closed;~~

~~(d) If the solid waste disposal facility is closed as described in subparagraph (c)2., the redevelopment of the property containing the solid waste disposal facility shall be limited to commercial or industrial land use only and shall be subject to appropriate engineering and institutional controls, and tax credits shall be awarded only after a restrictive covenant limiting future uses of the property has been reviewed and approved by the department and properly recorded;~~

~~(e) Costs for crushing or compacting the solid waste in place solely to make it suitable for future development shall not be eligible for tax credits pursuant to this section; and~~

~~(f) Any activity conducted in accordance with this subsection shall not be considered site rehabilitation.~~

~~(15) In implementing subsection (13), the department shall use the same criteria, requirements, and limitations detailed in subsections (1)-(12) of this section and ss. 199.1055 and 220.1845, with the following exceptions:~~

~~(a) Where reference is made to "site rehabilitation," the department shall consider whether the costs claimed are for~~

~~voluntary cleanup activity that addresses a solid waste disposal facility as outlined in subsection (13);~~

~~(b) In lieu of the certification requirements of paragraph (5)(d), a tax credit applicant seeking a tax credit pursuant to subsection (13) shall include in the tax credit application:~~

~~1. A certification that the applicant has determined, after consultation with local government officials and the department, that the solid waste disposal facility ceased operating prior to January 1, 1974, and is not or has never been subject to a solid waste permit;~~

~~2. A certification signed and sealed by an appropriate registered professional and previously approved by the department that the solid waste disposal facility has been properly closed pursuant to chapter 62-701, Florida Administrative Code, or that all solid waste was removed and properly disposed of; and~~

~~3. A certification signed and sealed by an appropriate registered professional that costs incurred and claimed in the tax credit application were integral, necessary, and required to conduct those activities listed in paragraph (13)(c), as applicable;~~

~~(c) Tax credit applications in which costs are claimed pursuant to subparagraphs (13)(c)1. and 2. shall not be subject to the calendar year limitation and January 15 annual application deadline, but the department shall accept a one time application filed after the tax credit applicant has completed all requirements listed in subsection (13) and this subsection;~~

~~(d) Notwithstanding the tax credit percentage established in subsections (2) and (7) and ss. 199.1055 and 220.1845, the tax credit for activities conducted pursuant to subparagraphs~~

~~(13)(c)2.-4. relating to closure of a solid waste disposal facility shall be limited to 25 percent;~~

~~(e) The additional percentage allowed by paragraph (2)(c) and ss. 199.1055(1)(h) and 220.1845(1)(i) is not applicable to tax credits claimed pursuant to subsection (13); and~~

~~(f) The department shall have 60 days after the date of receipt of any application claiming tax credits pursuant to subsection (13) to process the application and grant or deny the claimed tax credits.~~

Section 4. Subsections (15) and (16) of section 196.012, Florida Statutes, are amended to read:

196.012 Definitions.--For the purpose of this chapter, the following terms are defined as follows, except where the context clearly indicates otherwise:

(15) "New business" means:

(a)1. A business establishing 10 or more jobs to employ 10 or more full-time employees in this state, which manufactures, processes, compounds, fabricates, or produces for sale items of tangible personal property at a fixed location and which comprises an industrial or manufacturing plant;

2. A business establishing 25 or more jobs to employ 25 or more full-time employees in this state, the sales factor of which, as defined by s. 220.15(5), for the facility with respect to which it requests an economic development ad valorem tax exemption is less than 0.50 for each year the exemption is claimed; or

3. An office space in this state owned and used by a corporation newly domiciled in this state; provided such office space houses 50 or more full-time employees of such corporation;

provided that such business or office first begins operation on a site clearly separate from any other commercial or industrial operation owned by the same business.

(b) Any business located in an enterprise zone or brownfield area that first begins operation on a site clearly separate from any other commercial or industrial operation owned by the same business.

(c) A business that is situated on property annexed into a municipality and that, at the time of the annexation, is receiving an economic development ad valorem tax exemption from the county under s. 196.1995.

(16) "Expansion of an existing business" means:

(a)1. A business establishing 10 or more jobs to employ 10 or more full-time employees in this state, which manufactures, processes, compounds, fabricates, or produces for sale items of tangible personal property at a fixed location and which comprises an industrial or manufacturing plant; or

2. A business establishing 25 or more jobs to employ 25 or more full-time employees in this state, the sales factor of which, as defined by s. 220.15(5), for the facility with respect to which it requests an economic development ad valorem tax exemption is less than 0.50 for each year the exemption is claimed; provided that such business increases operations on a site colocated with a commercial or industrial operation owned by the same business, resulting in a net increase in employment of not less than 10 percent or an increase in productive output of not less than 10 percent.

(b) Any business located in an enterprise zone or brownfield area that increases operations on a site colocated with a commercial or industrial operation owned by the same business.

Section 5. Section 196.1995, Florida Statutes, is amended to read:

196.1995 Economic development ad valorem tax exemption.--

(1) The board of county commissioners of any county or the governing authority of any municipality shall call a referendum within its total jurisdiction to determine whether its respective jurisdiction may grant economic development ad valorem tax exemptions under s. 3, Art. VII of the State Constitution if:

(a) The board of county commissioners of the county or the governing authority of the municipality votes to hold such referendum; or

(b) The board of county commissioners of the county or the governing authority of the municipality receives a petition signed by 10 percent of the registered electors of its respective jurisdiction, which petition calls for the holding of such referendum.

(2) The ballot question in such referendum shall be in substantially the following form:

Shall the board of county commissioners of this county (or the governing authority of this municipality, or both) be authorized to grant, pursuant to s. 3, Art. VII of the State Constitution, property tax exemptions to new businesses and expansions of existing businesses?

____ Yes--For authority to grant exemptions.

____ No--Against authority to grant exemptions.

(3) The board of county commissioners or the governing authority of the municipality that ~~which~~ calls a referendum within its total jurisdiction to determine whether its respective jurisdiction may grant economic development ad

valorem tax exemptions may vote to limit the effect of the referendum to authority to grant economic development tax exemptions for new businesses and expansions of existing businesses located in an enterprise zone or a brownfield area, as defined in s. 376.79(4). If ~~In the event that~~ an area nominated to be an enterprise zone pursuant to s. 290.0055 has not yet been designated pursuant to s. 290.0065 or has not been designated as a brownfield pursuant to s. 376.80, the board of county commissioners or the governing authority of the municipality may call such referendum prior to such designation; however, the authority to grant economic development ad valorem tax exemptions does ~~will~~ not apply until such area is designated pursuant to s. 290.0065. The ballot question in such referendum shall be in substantially the following form and shall be used in lieu of the ballot question prescribed in subsection (2):

Shall the board of county commissioners of this county (or the governing authority of this municipality, or both) be authorized to grant, pursuant to s. 3, Art. VII of the State Constitution, property tax exemptions for new businesses and expansions of existing businesses which are located in an enterprise zone or a brownfield area?

____Yes--For authority to grant exemptions.

____No--Against authority to grant exemptions.

(4) A referendum pursuant to this section may be called only once in any 12-month period.

(5) Upon a majority vote in favor of such authority, the board of county commissioners or the governing authority of the municipality, at its discretion, by ordinance may exempt from ad valorem taxation up to 100 percent of the assessed value of all improvements to real property made by or for the use of a new

business and of all tangible personal property of such new business, or up to 100 percent of the assessed value of all added improvements to real property made to facilitate the expansion of an existing business and of the net increase in all tangible personal property acquired to facilitate such expansion of an existing business, provided that the improvements to real property are made or the tangible personal property is added or increased on or after the day the ordinance is adopted. However, if the authority to grant exemptions is approved in a referendum in which the ballot question contained in subsection (3) appears on the ballot, the authority of the board of county commissioners or the governing authority of the municipality to grant exemptions is limited solely to new businesses and expansions of existing businesses that ~~which~~ are located in an enterprise zone or brownfield area. Property acquired to replace existing property shall not be considered to facilitate a business expansion. The exemption applies only to taxes levied by the respective unit of government granting the exemption. The exemption does not apply, however, to taxes levied for the payment of bonds or to taxes authorized by a vote of the electors pursuant to s. 9(b) or s. 12, Art. VII of the State Constitution. Any such exemption shall remain in effect for up to 10 years with respect to any particular facility, regardless of any change in the authority of the county or municipality to grant such exemptions. The exemption shall not be prolonged or extended by granting exemptions from additional taxes or by virtue of any reorganization or sale of the business receiving the exemption.

(6) With respect to a new business as defined by s. 196.012(15)(c), the municipality annexing the property on which the business is situated may grant an economic development ad

valorem tax exemption under this section to that business for a period that will expire upon the expiration of the exemption granted by the county. If the county renews the exemption under subsection (7), the municipality may also extend its exemption. A municipal economic development ad valorem tax exemption granted under this subsection may not extend beyond the duration of the county exemption.

(7) The authority to grant exemptions under this section will expire 10 years after the date such authority was approved in an election, but such authority may be renewed for another 10-year period in a referendum called and held pursuant to this section.

(8) Any person, firm, or corporation which desires an economic development ad valorem tax exemption shall, in the year the exemption is desired to take effect, file a written application on a form prescribed by the department with the board of county commissioners or the governing authority of the municipality, or both. The application shall request the adoption of an ordinance granting the applicant an exemption pursuant to this section and shall include the following information:

(a) The name and location of the new business or the expansion of an existing business;

(b) A description of the improvements to real property for which an exemption is requested and the date of commencement of construction of such improvements;

(c) A description of the tangible personal property for which an exemption is requested and the dates when such property was or is to be purchased;

(d) Proof, to the satisfaction of the board of county commissioners or the governing authority of the municipality,

that the applicant is a new business or an expansion of an existing business, as defined in s. 196.012(15) or (16); and

(e) Other information deemed necessary by the department.

(9) Before it takes action on the application, the board of county commissioners or the governing authority of the municipality shall deliver a copy of the application to the property appraiser of the county. After careful consideration, the property appraiser shall report the following information to the board of county commissioners or the governing authority of the municipality:

(a) The total revenue available to the county or municipality for the current fiscal year from ad valorem tax sources, or an estimate of such revenue if the actual total revenue available cannot be determined;

(b) Any revenue lost to the county or municipality for the current fiscal year by virtue of exemptions previously granted under this section, or an estimate of such revenue if the actual revenue lost cannot be determined;

(c) An estimate of the revenue which would be lost to the county or municipality during the current fiscal year if the exemption applied for were granted had the property for which the exemption is requested otherwise been subject to taxation; and

(d) A determination as to whether the property for which an exemption is requested is to be incorporated into a new business or the expansion of an existing business, as defined in s. 196.012(15) or (16), or into neither, which determination the property appraiser shall also affix to the face of the application. Upon the request of the property appraiser, the department shall provide to him or her such information as it may have available to assist in making such determination.

(10) An ordinance granting an exemption under this section shall be adopted in the same manner as any other ordinance of the county or municipality and shall include the following:

(a) The name and address of the new business or expansion of an existing business to which the exemption is granted;

(b) The total amount of revenue available to the county or municipality from ad valorem tax sources for the current fiscal year, the total amount of revenue lost to the county or municipality for the current fiscal year by virtue of economic development ad valorem tax exemptions currently in effect, and the estimated revenue loss to the county or municipality for the current fiscal year attributable to the exemption of the business named in the ordinance;

(c) The period of time for which the exemption will remain in effect and the expiration date of the exemption; and

(d) A finding that the business named in the ordinance meets the requirements of s. 196.012(15) or (16).

Section 6. Subsection (2) of section 288.9015, Florida Statutes, is amended to read:

288.9015 Enterprise Florida, Inc.; purpose; duties.--

(2) It shall be the responsibility of Enterprise Florida, Inc., to aggressively market Florida's rural communities, distressed urban communities, <u>brownfields,</u> and enterprise zones as locations for potential new investment, to aggressively assist in the retention and expansion of existing businesses in these communities, and to aggressively assist these communities in the identification and development of new economic development opportunities for job creation, fully marketing state incentive programs such as the Qualified Target Industry Tax Refund Program under s. 288.106 and the Quick Action Closing Fund under s. 288.1088 in economically distressed areas.

Amendment No. 1

Section 7. Section 376.80, Florida Statutes, is amended to read:

376.80 Brownfield program administration process.--

(1) A local government with jurisdiction over the brownfield area must notify the department of its decision to designate a brownfield area for rehabilitation for the purposes of ss. 376.77-376.85. The notification must include a resolution, by the local government body, to which is attached a map adequate to clearly delineate exactly which parcels are to be included in the brownfield area or alternatively a less-detailed map accompanied by a detailed legal description of the brownfield area. If a property owner within the area proposed for designation by the local government requests in writing to have his or her property removed from the proposed designation, the local government shall grant the request. For municipalities, the governing body shall adopt the resolution in accordance with the procedures outlined in s. 166.041, except that the notice for the public hearings on the proposed resolution must be in the form established in s. 166.041(3)(c)2. For counties, the governing body shall adopt the resolution in accordance with the procedures outlined in s. 125.66, except that the notice for the public hearings on the proposed resolution shall be in the form established in s. 125.66(4)(b)2.

(2)(a) If a local government proposes to designate a brownfield area that is outside community redevelopment areas, enterprise zones, empowerment zones, closed military bases, or designated brownfield pilot project areas, the local government must conduct at least one public hearing in the area to be designated to provide an opportunity for public input on the size of the area, the objectives for rehabilitation, job opportunities and economic developments anticipated,

neighborhood residents' considerations, and other relevant local concerns. Notice of the public hearing must be made in a newspaper of general circulation in the area and the notice must be at least 16 square inches in size, must be in ethnic newspapers or local community bulletins, must be posted in the affected area, and must be announced at a scheduled meeting of the local governing body before the actual public hearing. In determining the areas to be designated, the local government must consider:

1. Whether the brownfield area warrants economic development and has a reasonable potential for such activities;

2. Whether the proposed area to be designated represents a reasonably focused approach and is not overly large in geographic coverage;

3. Whether the area has potential to interest the private sector in participating in rehabilitation; and

4. Whether the area contains sites or parts of sites suitable for limited recreational open space, cultural, or historical preservation purposes.

(b) A local government shall designate a brownfield area under the provisions of this act provided that:

1. A person who owns or controls a potential brownfield site is requesting the designation and has agreed to rehabilitate and redevelop the brownfield site;

2. The rehabilitation and redevelopment of the proposed brownfield site will result in economic productivity of the area, along with the creation of at least 5 ~~10~~ new permanent jobs at the brownfield site~~, whether full-time or part-time,~~ which are full-time equivalent positions not associated with the implementation of the brownfield site rehabilitation agreement and which are not associated with redevelopment project

demolition or construction activities pursuant to the redevelopment agreement required under paragraph (5)(i). However, the job-creation requirement may not apply to the rehabilitation and redevelopment of a brownfield site that will provide affordable housing as defined in s. 420.0004(3) or the creation of recreational areas, conservation areas, or parks;

3. The redevelopment of the proposed brownfield site is consistent with the local comprehensive plan and is a permittable use under the applicable local land development regulations;

4. Notice of the proposed rehabilitation of the brownfield area has been provided to neighbors and nearby residents of the proposed area to be designated, and the person proposing the area for designation has afforded to those receiving notice the opportunity for comments and suggestions about rehabilitation. Notice pursuant to this subsection must be made in a newspaper of general circulation in the area, at least 16 square inches in size, and the notice must be posted in the affected area; and

5. The person proposing the area for designation has provided reasonable assurance that he or she has sufficient financial resources to implement and complete the rehabilitation agreement and redevelopment plan.

(c) The designation of a brownfield area and the identification of a person responsible for brownfield site rehabilitation simply entitles the identified person to negotiate a brownfield site rehabilitation agreement with the department or approved local pollution control program.

(3) When there is a person responsible for brownfield site rehabilitation, the local government must notify the department of the identity of that person. If the agency or person who will be responsible for the coordination changes during the approval

process specified in subsections (4), (5), and (6), the department or the affected approved local pollution control program must notify the affected local government when the change occurs.

(4) Local governments or persons responsible for rehabilitation and redevelopment of brownfield areas must establish an advisory committee or use an existing advisory committee that has formally expressed its intent to address redevelopment of the specific brownfield area for the purpose of improving public participation and receiving public comments on rehabilitation and redevelopment of the brownfield area, future land use, local employment opportunities, community safety, and environmental justice. Such advisory committee should include residents within or adjacent to the brownfield area, businesses operating within the brownfield area, and others deemed appropriate. The person responsible for brownfield site rehabilitation must notify the advisory committee of the intent to rehabilitate and redevelop the site before executing the brownfield site rehabilitation agreement, and provide the committee with a copy of the draft plan for site rehabilitation which addresses elements required by subsection (5). This includes disclosing potential reuse of the property as well as site rehabilitation activities, if any, to be performed. The advisory committee shall review the proposed redevelopment agreement required pursuant to paragraph (5)(i) and provide comments, if appropriate, to the board of the local government with jurisdiction over the brownfield area. The advisory committee must receive a copy of the executed brownfield site rehabilitation agreement. When the person responsible for brownfield site rehabilitation submits a site assessment report or the technical document containing the proposed course of

action following site assessment to the department or the local pollution control program for review, the person responsible for brownfield site rehabilitation must hold a meeting or attend a regularly scheduled meeting to inform the advisory committee of the findings and recommendations in the site assessment report or the technical document containing the proposed course of action following site assessment.

(5) The person responsible for brownfield site rehabilitation must enter into a brownfield site rehabilitation agreement with the department or an approved local pollution control program if actual contamination exists at the brownfield site. The brownfield site rehabilitation agreement must include:

(a) A brownfield site rehabilitation schedule, including milestones for completion of site rehabilitation tasks and submittal of technical reports and rehabilitation plans as agreed upon by the parties to the agreement;

(b) A commitment to conduct site rehabilitation activities under the observation of professional engineers or geologists who are registered in accordance with the requirements of chapter 471 or chapter 492, respectively. Submittals provided by the person responsible for brownfield site rehabilitation must be signed and sealed by a professional engineer registered under chapter 471, or a professional geologist registered under chapter 492, certifying that the submittal and associated work comply with the law and rules of the department and those governing the profession. In addition, upon completion of the approved remedial action, the department shall require a professional engineer registered under chapter 471 or a professional geologist registered under chapter 492 to certify that the corrective action was, to the best of his or her

knowledge, completed in substantial conformance with the plans and specifications approved by the department;

(c) A commitment to conduct site rehabilitation in accordance with department quality assurance rules;

(d) A commitment to conduct site rehabilitation consistent with state, federal, and local laws and consistent with the brownfield site contamination cleanup criteria in s. 376.81, including any applicable requirements for risk-based corrective action;

(e) Timeframes for the department's review of technical reports and plans submitted in accordance with the agreement. The department shall make every effort to adhere to established agency goals for reasonable timeframes for review of such documents;

(f) A commitment to secure site access for the department or approved local pollution control program to all brownfield sites within the eligible brownfield area for activities associated with site rehabilitation;

(g) Other provisions that the person responsible for brownfield site rehabilitation and the department agree upon, that are consistent with ss. 376.77-376.85, and that will improve or enhance the brownfield site rehabilitation process;

(h) A commitment to consider appropriate pollution prevention measures and to implement those that the person responsible for brownfield site rehabilitation determines are reasonable and cost-effective, taking into account the ultimate use or uses of the brownfield site. Such measures may include improved inventory or production controls and procedures for preventing loss, spills, and leaks of hazardous waste and materials, and include goals for the reduction of releases of toxic materials; and

(i) Certification that an agreement exists between the person responsible for brownfield site rehabilitation and the local government with jurisdiction over the brownfield area. Such agreement shall contain terms for the redevelopment of the brownfield area.

(6) Any contractor performing site rehabilitation program tasks must demonstrate to the department that the contractor:

(a) Meets all certification and license requirements imposed by law; and

(b) Has obtained the necessary approvals for conducting sample collection and analyses pursuant to department rules.

(7) The contractor who is performing the majority of the site rehabilitation program tasks pursuant to a brownfield site rehabilitation agreement or supervising the performance of such tasks by licensed subcontractors in accordance with the provisions of s. 489.113(9) must certify to the department that the contractor:

(a) Complies with applicable OSHA regulations.

(b) Maintains workers' compensation insurance for all employees as required by the Florida Workers' Compensation Law.

(c) Maintains comprehensive general liability coverage with limits of not less than $1 million per occurrence and $2 million general aggregate for bodily injury and property damage and comprehensive automobile liability coverage with limits of not less than $2 million combined single limit. The contractor shall also maintain pollution liability coverage with limits of not less than $3 million aggregate for personal injury or death, $1 million per occurrence for personal injury or death, and $1 million per occurrence for property damage. The contractor's certificate of insurance shall name the state as an additional insured party.

(d) Maintains professional liability insurance of at least $1 million per claim and $1 million annual aggregate.

(8) Any professional engineer or geologist providing professional services relating to site rehabilitation program tasks must carry professional liability insurance with a coverage limit of at least $1 million.

(9) During the cleanup process, if the department or local program fails to complete review of a technical document within the timeframe specified in the brownfield site rehabilitation agreement, the person responsible for brownfield site rehabilitation may proceed to the next site rehabilitation task. However, the person responsible for brownfield site rehabilitation does so at its own risk and may be required by the department or local program to complete additional work on a previous task. Exceptions to this subsection include requests for "no further action," "monitoring only proposals," and feasibility studies, which must be approved prior to implementation.

(10) If the person responsible for brownfield site rehabilitation fails to comply with the brownfield site rehabilitation agreement, the department shall allow 90 days for the person responsible for brownfield site rehabilitation to return to compliance with the provision at issue or to negotiate a modification to the brownfield site rehabilitation agreement with the department for good cause shown. If an imminent hazard exists, the 90-day grace period shall not apply. If the project is not returned to compliance with the brownfield site rehabilitation agreement and a modification cannot be negotiated, the immunity provisions of s. 376.82 are revoked.

(11) The department is specifically authorized and encouraged to enter into delegation agreements with local

pollution control programs approved under s. 403.182 to administer the brownfield program within their jurisdictions, thereby maximizing the integration of this process with the other local development processes needed to facilitate redevelopment of a brownfield area. When determining whether a delegation pursuant to this subsection of all or part of the brownfields program to a local pollution control program is appropriate, the department shall consider the following. The local pollution control program must:

(a) Have and maintain the administrative organization, staff, and financial and other resources to effectively and efficiently implement and enforce the statutory requirements of the delegated brownfields program; and

(b) Provide for the enforcement of the requirements of the delegated brownfields program, and for notice and a right to challenge governmental action, by appropriate administrative and judicial process, which shall be specified in the delegation.

The local pollution control program shall not be delegated authority to take action on or to make decisions regarding any brownfield site on land owned by the local government. Any delegation agreement entered into pursuant to this subsection shall contain such terms and conditions necessary to ensure the effective and efficient administration and enforcement of the statutory requirements of the brownfields program as established by the act and the relevant rules and other criteria of the department.

(12) Local governments are encouraged to use the full range of economic and tax incentives available to facilitate and promote the rehabilitation of brownfield areas, to help eliminate the public health and environmental hazards, and to

promote the creation of jobs and economic development in these previously run-down, blighted, and underutilized areas.

Section 8. Subsection (1) of section 376.86, Florida Statutes, is amended to read:

376.86 Brownfield Areas Loan Guarantee Program.--

(1) The Brownfield Areas Loan Guarantee Council is created to review and approve or deny by a majority vote of its membership, the situations and circumstances for participation in partnerships by agreements with local governments, financial institutions, and others associated with the redevelopment of brownfield areas pursuant to the Brownfields Redevelopment Act for a limited state guaranty of up to 5 years of loan guarantees or loan loss reserves issued pursuant to law. The limited state loan guaranty applies only to 50 ~~10~~ percent of the primary lenders loans for redevelopment projects in brownfield areas. If the redevelopment project is for affordable housing, as defined in s. 420.0004(3), in a brownfield area, the limited state loan guaranty applies to 75 percent of the primary lender's loan. A limited state guaranty of private loans or a loan loss reserve is authorized for lenders licensed to operate in the state upon a determination by the council that such an arrangement would be in the public interest and the likelihood of the success of the loan is great.

Section 9. Sections 376.87 and 376.875, Florida Statutes, are repealed.

Section 10. This act shall take effect July 1, 2006.

========== T I T L E A M E N D M E N T ==========

Remove the entire title and insert:

Amendment No. 1

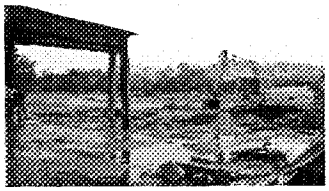
An act relating to the redevelopment of brownfields; amending ss. 199.1055, 220.1845, and 376.30781, 376.80, and 376.86, F.S.; increasing the amount and percentage of the credit that may be applied against the intangible personal property tax and the corporate income tax for the cost of voluntary cleanup of a contaminated site; increasing the amount that may be received by the taxpayer as an incentive to complete the cleanup in the final year; increasing the total amount of credits that may be granted in any year; providing tax credits for voluntary cleanup activities related to solid waste disposal facilities; providing criteria for eligible sites and activities; increasing the amount of the Brownfield Areas Loan Guarantee; reducing the job creation requirements; directing the Department of Environmental Protection to apply certain criteria, requirements, and limitations for implementation of such provisions; providing certain exceptions; amending s. 288.9015, F.S.; requiring Enterprise Florida, Inc., to aggressively market brownfields; amending ss. 196.012 and 196.1995, F.S., to include brownfield areas in the implementation of the economic development ad valorem tax exemption authorized under s. 3, Art VII of the Florida Constitution; repealing s. 376.87, F.S., relating to the Brownfield Property Ownership Clearance Assistance; repealing s. 376.875, F.S., relating to the Brownfield Property Ownership Clearance Assistance Revolving Loan Trust Fund; amending s. 14.2015, F.S.; deleting a reference to the trust fund to conform; providing an effective date.

Florida's Brownfields Program

Before and After

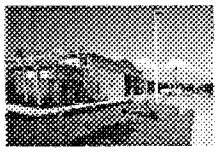
Central Florida Auto Salvage

- Clearwater, Florida
- Junkyard for over 40 years
- Multiple Sources



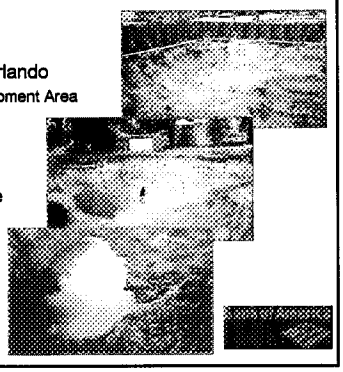
Brownfields Results

- Northwest Fire Station
- Improve Response Times to Underserved Community
- Remove Environmental Blight from the Neighborhood
- Environmental Justice



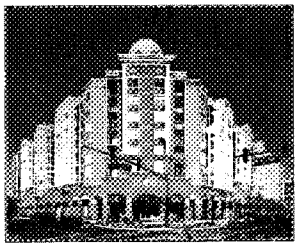
City View

- Parramore Area of Orlando
  - Community Redevelopment Area
  - Enterprise Zone
  - Brownfields Area
- Corner Gas Station
- Underground Storage Tank Removal
- Groundwater Contamination
- Excavation of Petroleum Contamination



City View

- $64 Million
- Mixed-Use/Mixed Income Project
- 266 Apartments
  - 40% Affordable
  - 60% Market Rate
  - $900,000 Building Materials Tax Refund



City View

- 200,000 sf Office
- 25,000 sf Ground Floor Retail
- Hughes Supply Corporate Headquarters

Solid Waste Sites:
A Great Opportunity to Enhance the Florida Brownfields Program

An Example of a Solid Waste Site